

Chapter 81

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65 - INDEPENDENT AGENCIES - REGULATORY

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CHAPTER - 81 RESIDENTIAL UTILITY SERVICE STANDARDS FOR CREDIT
AND COLLECTION PROGRAMS

SUMMARY: This Chapter establishes the minimum standards of fairness in credit and collection programs for residential utility service. These rules govern granting and denying service, credit and deposit practices, billing, disconnection, customer complaint procedures and methods of obtaining exemption and variation from this Chapter.

1. STATEMENT OF PURPOSES; JURISDICTION

A. Purposes. The purposes of this Chapter are:

1. To assure safe and adequate provision of residential utility service;
2. To assure that service is not disconnected or refused unreasonably;

and

3. To assure the utility's right to collect proper bills for residential utility service.

Every privilege that is granted and every duty that is required by this Chapter imposes an obligation on utilities, applicants and customers to accept these privileges and perform these duties with good faith, honesty and fairness.

This Chapter defines the minimum standards for nondiscriminatory practices that all utilities must follow. It does not, however, limit the power of utilities to give greater protection to their customers above these minimum standards.

B. Jurisdiction.

1. This Chapter applies to all electric, gas, telephone and water utilities that are subject to the jurisdiction and supervision of the Commission. A particular

class or individual utility may be specifically exempt from one or more provisions of this Chapter by a Rule or Order of the Commission:

2. A utility that has less than 1500 residential customers as reported in the utility's most recent annual report on file with the Commission is exempt from this Chapter except for the provisions listed below. If a utility is an affiliated interest (as defined in 35-A M.R.S.A. Section 707) of one or more utilities that are subject to the Commission's jurisdiction, it qualifies for this exemption only if the total residential customers of the utility and the affiliated interests is less than 1500 residential customers. If a utility is exempt under this provision, it must comply with the following provisions:

- Section 1;
- Section 2;
- Section 4(A) and (I);
- Section 5(A) through (C) and (E);
- Section 6;
- Section 7(A) and (B);
- Section 8
- Section 9(A) through (J);
- Section 10(A) and (B);
- Section 11(A);
- Section 12;
- Section 13;
- Section 15;
- Section 16(C); and
- Section 17 (O).

Appendix A to this rule is a compilation of these sections.

3. This Chapter supersedes the conflicting provisions of any tariff on file with the Commission. A utility must submit tariffs that correct any conflict with the provisions of this Chapter before February 1, 1989.

4. This Chapter applies to the collection of amounts owed by a customer who is provided with residential utility service in Maine, whether or not the utility is regulated by the Commission, to the extent not preempted by federal law.

5. Any reference to a prior version of this Chapter in a utility tariff, Commission Rule or Order will be interpreted to refer to the equivalent provision of this Chapter if there is an equivalent provision.

2. DEFINITIONS

The following terms have the following meanings, unless the context clearly indicates a different meaning:

A. Account Balance. "Account balance" means the total amount owed by a customer that has been properly billed by a utility in accordance with this Chapter.

B. Amount Overdue. "Amount overdue" means the amount that a utility has properly billed to a customer that has not been paid in full by the due date of the bill or by a date otherwise agreed upon.

C. Applicant. "Applicant" means any person who applies for residential utility service and who is not a customer of the utility.

D. Bill. "Bill" means a written statement from a utility to a customer that states the amount owed by the customer for the current billing period, the amount overdue, the account balance, late fees and any other charges lawfully owed by the customer.

E. Commission. "Commission" means the Maine Public Utilities Commission.

F. Consumer Assistance Division. "Consumer Assistance Division" means the Consumer Assistance Division of the Commission.

G. Customer. "Customer" means any person who has applied for, been accepted and is either receiving residential utility service or has agreed to be billed for residential utility service. This term also includes a person who was a customer of the same utility within the past thirty (30) days and who requests service at the same or a different location.

H. Deposit. "Deposit" means any payment, however designated, that is held as security for future payment or performance and that is reimbursable after the customer establishes that the circumstances that originally justified the request for payment no longer exist.

I. Dispute. "Dispute" means a grievance of a customer or applicant about a utility's application of any provision of this Chapter. Situations of dispute include, but are not limited to:

- credit determination;
- deposit requirements;
- the accuracy of meter readings or bill amounts;
- the proper person to be charged;
- the terms of a payment arrangement;
- the terms in order avoid a pending disconnection; and
- the terms in order to obtain a reconnection.

If a customer or applicant has a grievance and then indicates that the response from the utility's employee was satisfactory, the contact between the customer or applicant and the utility will not be considered a dispute.

J. Due Date. The "due date" is the last day the bill must be paid in order to avoid payment of late fees or the initiation of collection action for an overdue amount. The "due date" of a bill must be no less than twenty-five (25) days after the bill is mailed or hand delivered to the customer. If the utility mails its bills to customers from a location outside Maine and requires customers to mail payment to a location outside Maine, the "due date" must be extended five (5) days (for a total of thirty (30)). A bill is considered to have been mailed on the date it is postmarked. If there is no postmark, a utility must date the bill and mail the bill on or before that date.

K. Dwelling. "Dwelling" means a house, apartment, mobile home or single-meter multi-unit structure that is provided with utility service for personal, family or household use.

L. Non-basic Utility Service.

1. "Non-basic utility service" means residential utility service that meets any of these conditions:

- a. The Commission does not regulate the rate or charge for the service;
- b. The rate or charge for the service is not contained in the utility's tariffs; or

c. The service is for merchandise or equipment that is not required as a condition of receiving utility service.

2. "Non-basic utility service" does not include toll service charges, including interstate access charges, billed by a telephone utility under a contractual arrangement with the provider of the toll service.

M. Occupant. "Occupant" means any person who resides in a dwelling that is provided with residential utility service.

N. Payment Arrangement. "Payment arrangement" means an agreement between a customer or applicant and a utility that allows the account balance or deposit to be paid in one or more installments.

O. Registered Physician. "Registered physician" means a physician or surgeon licenced under Title 32 M.R.S.A. Section 3270, et seq. or an osteopathic physician licensed under Title 32 M.R.S.A. Section 2571, et seq.

P. Residential Utility Service. "Residential utility service" means utility service provided to a dwelling. It includes service provided for a nonresidential purpose, if a residential dwelling is receiving service on the same meter. Utility service provided to a hotel or motel is not residential service.

Q. Unauthorized Use. "Unauthorized use" means the unreasonable interference or diversion of utility service. Unauthorized use includes:

- tampering with the meter (any act which affects the proper registration of service through a meter);
- by-passing (unmetered service that flows through a device connected between the service line and customer-owned facilities); or
- restoring service without authorization.

R. Utility. "Utility" means any electric, gas, telephone or water utility subject to the provisions of this Chapter.

3. BILLING AND PAYMENT STANDARDS

A. Actual Reading. A utility must obtain an actual meter reading at least once every twelve (12) months to verify the accuracy of bills issued on the basis of estimated readings or readings provided by the customer.

B. Estimated Bills.

1. A utility may issue a bill for estimated usage in the following circumstances:

a. When extreme weather conditions, emergencies, equipment failure, work stoppages or other similar circumstances prevent an actual meter reading by utility employees; or

b. When a customer is billed on a seasonal basis according to terms included in the tariff of the utility.

2. A utility cannot issue two consecutive estimated bills for reasons other than those in Paragraph 1 unless the customer has been provided with an opportunity to read the meter and report the actual usage instead of an estimated bill. The utility may specify that the reading by the customer must be on a form provided by the utility by mail or telephone and submitted by a certain date. If the customer does not provide a reading by the required date and in an appropriate form, the utility may issue an estimated bill.

C. Remote Meters. A utility which has installed a remote meter designed to record the usage of an actual meter located in an unaccessible location must verify the accuracy of the remote meter at least once every sixteen (16) billing periods or four (4) years, whichever comes first.

D. Past Usage. If requested by a customer, a utility must provide a statement of the customer's usage for at least the thirteen (13) months prior to the customer's request.

E. Previously Unbilled Utility Service. A utility may issue a "make-up" bill for service that the customer received, but that was previously unbilled.

1. If the "make-up" bill is for service that was unbilled because of utility billing error, failure to comply with subsection A, meter failure or leakage that could not reasonably have been detected by either the utility or the customer, the utility cannot bill

or collect for service that occurred more than twelve (12) months before the issuance of the "make-up" bill.

2. If the "make-up" bill is for service that was previously unbilled because of unauthorized use or fraud by the customer, the utility may bill for service that occurred up to six (6) years before the issuance of the "make-up" bill.

3. A utility may enter into a settlement for just cause that abates all or a portion of the previously unbilled service.

4. When a utility issues a bill that includes previously unbilled utility service according to paragraph 1, it must notify the customer of the right to a payment arrangement for the previously unbilled amount. The terms of a payment arrangement negotiated for the previously unbilled amount should take into account the period during which the unbilled service accrued, the length of time between the usage and the issuance of the bill, and the reason for the unbilled amount.

5. A utility must promptly notify the customer of a billing error after the utility discovers or is notified of the error and correct the error within 45 days. The time period for correction of the billing error may be extended in extenuating circumstances.

F. Billing Information.

1. Every bill issued by a utility for metered residential service must clearly state the following minimum information:

a. the beginning and ending dates of the period for which service was provided;

b. the beginning and ending meter readings for the billing period and the difference between the two meter readings;

c. the due date by which payment must be made and that after this date the account will be considered overdue and late fees imposed, if authorized;

d. the amount due for service provided during the current billing period. This amount must specify the charge for the metered service, State taxes and similar charges;

e. an itemization of all other current unpaid charges, including, if applicable, registration or installation fees, reconnection fees, deposit payments, and late payment fees which have accrued to the customer's account;

f. the total amount of all payments or other credits made to the customer's account during the current billing period, except that utilities that bill quarterly do not have to comply with this requirement;

g. the amount overdue, if applicable;

h. the account balance;

i. a clear and conspicuous marking of all estimates. A utility that bills by postcard may abbreviate the word "Estimate";

j. The address and telephone number where the customer may call or write to ask questions or dispute the bill with the utility; and

k. a designation of the applicable class of service as stated in the utility's approved tariff.

2. A telephone utility bill must state the minimum information required by subsection 1(a), (c), (e), (f), (g), (h), (j) and (k) and the following information:

a. the amount due for service and equipment during the current billing period, including the charges for toll service, local exchange service, taxes and applicable surcharges;

b. an itemized statement of toll charges that lists for each toll call the date, time, destination, duration and rate period. This itemization is not required for bulk rate toll services; and

c. an itemization of recurring charges for optional services selected by the customer.

3. A utility must comply with this subsection by August 1, 1989.

G. Plain Language Bills for Electric and Gas Utilities.

1. Every electric and gas utility must use a plain language format for bills issued to residential customers.

2. The bill format must include:

- a. sufficient information so that the ordinary customer can understand the basic components of the bill;
 - b. comparative usage information for the prior 12-month period or for the equivalent period 12 months ago;
 - c. definitions of technical terms used in the bill; and
 - d. sufficient separation between sections, type size and visual highlighting to make the bill uncluttered and easy to read.
3. A utility must comply with this subsection by August 1, 1989. The bill format must be filed with the Commission, but prior Commission approval is not required before the bill format is used.

H. Payment.

- 1. If the due date for payment falls on a Saturday, Sunday, legal holiday, or any other day when the offices of the utility which regularly receive payments are not open to the general public, a utility must extend the due date to the next business day.
- 2. If the customer sends payment by mail, payment is made on the date of the receipt by the utility.
- 3. If the customer pays the bill at a branch office or authorized agency of the utility, payment is made on the date of actual receipt of payment at that location.
- 4. When a utility advises a customer by multiple notices or contacts which contain different due dates, the payment is due on or before the latest date.
- 5. The customer may pay the bill in cash, check, money order, or other means accepted by the utility. The utility may adopt a reasonable policy when a customer pays by a check that is not honored by the bank.

I. Late Payment Fees. A utility must file a tariff according to the requirements of Chapter 87 of the Commission's Rules and this Chapter before a late payment fee is charged.

J. Discount for Early Payment. A utility may file a tariff that offers a discount for early payment.

K. Non-basic Utility Service. A utility must either issue a separate bill for non-basic utility service or allocate partial payments first to other charges for residential service (in accordance with subsection L) and then to non-basic utility services.

L. Application of Partial Payments. When a utility receives payment that is insufficient to pay the full account balance, the utility must apply payment to the oldest balance due, unless written instructions, a disputed bill or a payment arrangement requires otherwise.

4. APPLICATION FOR SERVICE

A. Policy. A utility must apply credit and deposit policies to applicants in an equitable and nondiscriminatory manner, without regard to race, sex, age, national origin or marital status.

B. Written Procedures. Every utility must have written procedures for determining the credit status of an applicant. Each utility employee who processes applications or determines the credit status of an applicant must be given or have ready access to the utility's written procedures. A utility must keep a copy of the written procedures in each business office and provide, upon request, a copy of the written procedures to any member of the public and the Commission. A utility must orally explain its credit and deposit procedures to each applicant from whom the utility seeks a deposit or payment of an unpaid balance before the utility grants service. The utility must also explain these procedures to any applicant with whom there is a dispute concerning the application process.

C. Utility Duty After Request for Service. A utility must use due diligence to determine the applicant's credit status at the time the applicant requests service. The utility must, by the end of the next business day after the request for service, either:

1. provide service or initiate the utility's standard practices to provide service;

2. demand a deposit or payment of an unpaid residential account balance, or both; or
3. deny service.

D. Denial of Service. If a utility denies a request for service, the utility must inform the applicant orally and in writing as soon as practicable of the reasons for the denial and how the applicant can dispute the denial according to the provisions of Section 13.

E. Deposit. A utility may demand a deposit for the reasons and according to the procedures of Section 5.

F. Payment of Unpaid Account Balance. A utility may require that the applicant pay an undisputed unpaid residential account balance with the utility that accrued within the past six (6) years if the applicant was legally responsible for the debt. A utility must offer a payment arrangement to the applicant according to the provisions of Section 6(A). A utility cannot require the applicant to pay for residential service provided in the name of another person (for example, a separated spouse or a co-tenant) unless a court or administrative agency has determined that the applicant is legally obligated to pay for that service.

G. When a Utility Can Demand a Deposit and Payment of an Unpaid Account Balance.

1. After a utility has granted service, the utility can demand a deposit and payment of an unpaid account balance from a customer if:

- a. the utility could have demanded the deposit and unpaid account balance at the time of the request for service;
- b. the customer is notified in writing within sixty (60) days of the request for service; and

c. the utility allows the customer at least thirty (30) days after receipt of the written notification in order to pay or make a payment arrangement. If the customer fails to respond in this time period, the unpaid amount of the demand may be transferred to the customer's current account and collection procedures initiated for failure to pay or make a payment arrangement.

2. A utility may demand a deposit and payment of an unpaid account balance at any time if the utility was unable to discover the evidence to justify the demand within the time periods established by this Section because of fraud or material misrepresentation by the applicant.

3. In the case of a demand under paragraph 1 or 2, the utility must notify the customer in writing of the reason for the demand, what the customer must do to obtain or continue service, and how the customer can dispute the demand. If the utility demands a deposit, the disclosures required by Section 5(D) satisfy this requirement. If the utility demands payment of an unpaid account balance, the disclosures required by Section 6(B) satisfy this requirement.

H. Transfer and Collection of Unpaid Account Balances.

1. When a customer requests a transfer of service to a new location, a utility may without prior notice transfer the customer's current residential account balance to the customer's new account.

2. A utility may transfer an unpaid residential account balance to a new account according to the provisions of subsection C or G.

3. If a customer is disconnected, a utility may transfer to the account of a third party guarantor any portion of the account balance which is equal to the cash deposit requirement of the customer.

4. If an unpaid account balance is not transferred according to paragraphs 1 through 3, a utility cannot demand or collect it from a current customer by any means authorized by this Chapter.

5. If a disconnection notice is pending when a customer requests transfer of service to a new location, the utility may continue the disconnection process at the new location. If the notice required by Section 9 has been issued and the contact required by Section 10 has been attempted and service has not been disconnected because the customer has refused access to the customer's premises, the utility may deny service at a new location when the customer requests a transfer of service.

6. Nothing in this Section is intended to limit the right of a customer to dispute a bill according to Section 13.

I. Explanation of Charges. A utility must disclose the following information at the time an applicant requests service:

1. non-recurring installation, application or registration fees charged by the utility for the type of service requested;
2. if optional services are available, the charge for any optional service offered to the customer; and
3. the recurring charge for the minimum or least cost class of service available to the applicant.

5. DEPOSITS

A. Collection. A utility may demand a deposit from a customer or applicant only if the utility has proof that the customer or applicant is likely to be a credit risk or to damage the property of the utility. The term "proof that a customer or applicant is likely to be a credit risk" means positive, specific, personal, financial information obtained from any reasonably reliable source that demonstrates that the customer or applicant more likely than not cannot or will not pay the utility for the service provided. The following reasons, either alone or in combination, do not establish this proof:

- a history of late payment;
- lack of employment or income;
- irregular or brief employment;
- lack of previous credit history with the utility;
- credit history of the dwelling; or
- collective credit experience of the area where the customer applicant lives.

1. Applicants. Proof of any one of the following is prima facie "proof that the applicant is likely to be a credit risk".

a. An undisputed account balance for residential utility service is unpaid at the time that the applicant requests service. The amount must be either:

i) for service provided within the past six (6) years from the utility from whom the applicant requests service; or

ii) for residential utility service provided by any utility within the past twelve (12) months;

b. An unpaid, undisputed account balance for residential utility service provided within the past six (6) years was not paid until after the utility obtained a court judgement;

c. The applicant was disconnected for nonpayment of an undisputed bill, or for unauthorized use or theft of service by any utility within the past twelve (12) months; or

d. The applicant entered into a wage-earner plan under Chapter 13 of the Federal Bankruptcy Act and the Bankruptcy Court dismissed the plan for failure to comply with its terms within the past six (6) years.

2. Customers. Proof of any one of the following is prima facie "proof that the customer is likely to be a credit risk":

a. The customer files a petition under the Federal Bankruptcy Act when the Federal Bankruptcy Act allows the utility to demand a deposit; or

b. The customer requests that service be reconnected at the same or different location after the customer was disconnected for nonpayment, unauthorized use or theft of services.

c. The provisions of paragraphs 1 and 2 are not an exclusive list of all conditions, events, or circumstances that may be evidence of "proof that an applicant or customer is likely to be a credit risk."

3. In order to determine whether an applicant is "likely to be a credit risk" a utility may attribute to an applicant the financial condition and credit history of his or her spouse only if:

a. both spouses are residing at the same location; and

b. the applicant has no source of income, independent of the income of the spouse, that is sufficient to pay the bills for the utility service (estimated by the method described in subsection B). "Independent income" means a reasonably

certain supply of funds from any source, other than a source under the direct control of the spouse. This amount is not, however limited to wages alone.

4. In all cases other than those described in paragraph 4, in order to determine whether an applicant is "likely to be a credit risk," a utility may attribute to an applicant the credit and financial condition or credit history of a second person, regardless of the legal relationship between the applicant and the second person, only if the applicant is dependent for his or her support upon the other person. An applicant is not "dependent" upon the second person for support if the applicant has a reasonably certain supply of funds from other sources to pay the bill for the utility service (estimated by the method described in subsection B).

a. In any calendar year, a child of divorced or legally separated parents may be considered dependent on a parent only if that parent has custody of the child for at least one-half of the calendar year, regardless of the actual amount of support received from that parent.

b. In the case of an applicant who is a full-time student at an educational institution, amounts received as scholarships for study at the educational institution cannot be taken into account in determining whether the applicant is dependent for his or her support upon any second person.

5. A utility may require an applicant to comply with the requirements of a guarantor of a deposit if:

- a. the applicant applies for service at the location of a customer who was disconnected for nonpayment;
- b. the billing address remains at the disconnected customer's location; and
- c. the applicant resides at a different location.

B. Amount. A utility cannot demand a deposit which is more than the amount reasonably anticipated to be due for service for the two highest consecutive billing periods. The amount of the deposit of a customer with no previous usage

history with the utility cannot exceed the two highest consecutive bills of the utility's other residential customers whose usage is similar or expected to be similar.

C. Retention and Refund.

1. A utility must refund a deposit in the following circumstances:

a. When the customer has been disconnected. The utility then must apply the deposit, including accrued interest, to the account balance for utility service and refund the remainder within thirty (30) days or with the final bill, whichever is later. A transfer of service from one location to another is not considered disconnection for the purpose of this paragraph;

b. When the customer establishes good credit. If the customer pays all bills by the due date for twelve (12) consecutive months, the utility must refund the deposit, including accrued interest, within thirty (30) days after the twelfth bill is paid;

c. When a customer substitutes a third-party guarantor. If a guarantor is provided in accordance with the provisions of subsection F, the utility must refund the deposit, including accrued interest, up to the limits of the guarantee; or

d. When, at any time earlier than this subsection requires, the utility chooses to refund a deposit, including accrued interest.

2. The customer can choose to have a refunded deposit applied to reduce bills for future utility service or to receive a cash refund.

3. Once a deposit has been refunded to the customer, a utility can collect a new deposit from the customer only if, after the refund, there is "proof that the customer is likely to be a credit risk" as defined in subsection A.

4. If the customer does not establish good credit or if the utility, after refunding the deposit, can collect a second deposit on the same account, the utility can keep the deposit for as long as it determines that the deposit is necessary as security for future payment or performance.

D. Disclosure. When a utility demands a deposit, it must provide a written disclosure to any applicant or customer. A copy must be provided to a guarantor, if there is one. The disclosure must contain at least the following information:

1. the date that the utility demands a deposit;
2. the amount of the deposit;
3. the due date and payment options for the deposit, including the option of a third-party guarantor;
4. the applicant's or customer's right to be furnished, upon request, with the proof that the applicant or customer is likely to be a credit risk or to damage the property of the utility;
5. that if bills are paid on time for twelve (12) consecutive months, the deposit will be refunded with interest; and
6. the procedure by which the applicant or customer can dispute the deposit requirement or deposit amount.

E. Interest. A utility must pay interest on deposits according to the provisions of Chapter 87 of the Rules of the Commission.

F. Guarantee Instead of Deposit. A utility must offer to accept a third-party guarantee agreement instead of a cash deposit. The utility may require that the guarantor is a customer in good standing with the utility. The guarantee agreement must be in writing, contain the disclosures required by subsection D, and be limited to a specific time period. The utility may cancel the guarantee agreement if the guarantor loses good credit standing, and a guarantor may cancel the agreement upon at least thirty (30) days written notice to the utility and the customer. If the guarantee is cancelled or the term has expired, the utility can demand a deposit from the customer, unless the customer has established a good credit history as defined in subsection C(1)(b). If a deposit is not paid or if a payment arrangement is not established within thirty (30) days after the notice that requires payment of a deposit, a utility may begin further collection procedures.

G. Payment of Deposits.

1. In general, the utility can require the customer to either pay the deposit in full or enter a payment arrangement on the deposit amount that allows payment in at least three installments:

- 50% payable upon the determination that the deposit is required;
- 25% payable thirty (30) days after the determination; and
- 25% payable sixty (60) days after the determination.

2. A utility may demand full payment of the deposit amount at the time the deposit is requested if the deposit is requested at the time the applicant requests service and the applicant enters into a payment arrangement for an unpaid account balance at the same time.

3. If a customer requests reconnection following disconnection for nonpayment, the customer may elect one of the payment options according to Section 12(B).

4. A utility may negotiate payment of the deposit over a longer period in appropriate circumstances.

6. PAYMENT ARRANGEMENT

A. Agreement. The utility must continue to serve a customer who cannot pay an account balance in full if the customer:

1. pays a reasonable portion of the account balance;
2. agrees to pay the balance in reasonable installments; and
3. agrees to pay all future bills within thirty (30) days after the postmark of the bill until the installment payment arrangement is completed.

B. Form; Commission Review.

1. A payment arrangement can be made orally, but a utility must confirm in writing every payment arrangement that requires more than one payment or any payment after the effective period of a pending disconnection notice. The utility must mail or deliver a copy of the confirmation of the payment arrangement to the customer within three (3) business days after the oral agreement is made.

2. A written confirmation of a payment arrangement and any written form or offer of a payment arrangement prepared by the utility must conspicuously and clearly inform the customer of the provisions of subsections A, B(5) (with the

Commission address and toll free telephone number) and D of this Section. The written confirmation or offer must also clearly inform the customer of the utility's right to issue a 3-day disconnection notice for failure to comply with a payment arrangement.

3. In determining if a particular arrangement is reasonable, the utility must take into account:

- the customer's ability to pay;
- the size of the overdue amount;
- the customer's payment history;
- whether disconnection would present a danger to the health of the customer or occupants; and,
- the amount of time and reason why the overdue amount is outstanding.

The utility must make every reasonable attempt to negotiate a payment arrangement that is likely to prevent disconnection and reduce the amount overdue to zero.

4. If a payment arrangement was not confirmed in writing within three (3) business days after the oral agreement was made, a utility cannot disconnect the customer for failure to comply with the payment arrangement. A utility may either attempt personal contact to negotiate a new payment arrangement or issue a 14-day disconnection notice according to Section 7(A)(1).

5. If a utility and a customer cannot agree on the terms of a payment arrangement, the Consumer Assistance Division will establish a reasonable payment arrangement.

C. Second Agreement. If a customer fails to comply with terms of a payment arrangement, the utility may, but is not required to, negotiate a second payment arrangement.

D. Rights Preserved. A payment arrangement or other settlement of a dispute under this Chapter is not binding if it requires the customer to give up any rights provided by this Chapter.

E. Winter Rule. The provisions of Section 17 (Winter Disconnection Rule) supersede the provisions of this Section when applicable.

7. WHEN DISCONNECTION PROCEDURES CAN BEGIN

A. Disconnection Without Consent. A utility can begin disconnection procedures without the consent of the customer or occupant only if one or more of the following conditions exist:

1. The customer does not pay or make a payment arrangement on an undisputed overdue amount that is more than \$50. A utility can disconnect service for an overdue amount of less than \$50 only if:

- the overdue amount is more than ninety (90) days old; or
- the utility bills four (4) times a year or less.

2. The customer does not make payment according to the terms of a payment arrangement;

3. The customer does not pay or make a payment arrangement for a deposit or provide a third-party guarantor according to the provisions of Section 5;

4. Service is being used, but no occupant or other person has applied for customer status;

5. The customer unreasonably refuses to allow access to the premises to install or read a meter or for the necessary inspection or repair of utility property;

6. There is unauthorized use (as that term is defined in Section 2(Q)) of the utility service delivered on or about the affected dwelling;

7. The utility has reason to believe there is fraud or that the customer has materially misrepresented his or her identity in order to obtain utility service without complying with the provisions of this Chapter;

8. The occupant violates an approved tariff provision concerning the safety of any person or the integrity of the utility delivery system; or

9. The customer does not comply with a decision of the Consumer Assistance Division person or the Commission according to Section 13.

B. Request or Abandonment. A utility may disconnect service at the request of a customer (provided that the provisions of Section 9(I) concerning landlord/tenant disconnections are not applicable) or if the dwelling is clearly abandoned.

1. A utility can require customers to give notice of requests to disconnect service. A utility cannot require more than seven (7) days notice. The utility can require the customer to pay for service that is actually provided until the customer gives the required notice; the utility actually disconnects the service; the utility initiates disconnection procedures for failure to apply for customer status; or there is an application for service at that location.

C. Interruption of Service. The term "interruption" in this subsection means either a cessation of service or a substantial degradation in the quality of service normally provided. A utility may temporarily interrupt service when it is necessary to repair or maintain the utility delivery system (planned or unplanned); to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, state or national emergency.

1. When the utility schedules a service interruption for maintenance or repairs, the utility must give reasonable notice of the cause and expected duration of the interruption to customers and occupants who may be affected. If the service interruption is scheduled to affect more than 10 customers or last more than 3 hours, reasonable notice means three (3) days if feasible, but twenty-four (24) hours at a minimum. In other cases reasonable notice means notice as soon as practicable.

2. When service is interrupted without notice for more than three (3) hours, the utility must make reasonable efforts to notify affected customers and occupants of the cause and expected duration of the interruption as soon as possible. A utility may give priority to restoration of service when it is impossible to restore service and notify customers at the same time.

3. Notice required by paragraphs 1 and 2 can be given by the method best suited to the nature of the interruption, the size of the area affected, the time of year, and the resources available to the utility. In any case, the utility must take all

reasonable steps to notify directly those customers who have informed the utility of the presence of life support systems or other special needs that depend on utility service that a planned or scheduled interruption will occur. A utility must solicit applicants and customers to report the presence of life support systems or other special needs.

8. WHEN DISCONNECTION CANNOT OCCUR

A. Amount Overdue. The amount overdue stated on the disconnection notice must not include:

1. non-basic utility service (defined in Section 2(L);
2. amounts owed from a different account, unless a transfer of the account balance was done according to Section 4;
3. amounts owed from estimated bills. The amount overdue may include estimated bills only if the utility attempted reasonable alternatives to gain access or obtain a reading supplied by the customer; or,
4. residential service provided in the name or names of persons other than the customer, unless a court or administrative agency has determined that the customer is legally obligated to pay the amount overdue. This paragraph does not affect the creditor rights and remedies of a utility provided by other law.

B. Medical Emergency. A utility must not disconnect if it has been notified of a medical emergency according to Section 11.

C. Interstate Telephone Service. A telephone utility may not disconnect local exchange service for a non-Lifeline customer's failure to pay for interstate and/or intrastate toll service unless the telephone utility or the Commission is authorized by the provider of the interstate and/or intrastate toll service to mediate and resolve disputes.

D. Lifeline Customers. Telephone utilities eligible to receive federal universal service fund support pursuant to section 254 of the Telecommunications Act shall not disconnect Lifeline customers for non-payment of toll charges.

9. DISCONNECTION NOTICE

A. Without Notice. A utility can disconnect a customer without notice in the circumstances described in:

- Section 7(A)(6) (unauthorized use);
- Section 7(A)(8) (dangerous condition); or,
- Section 7(B) (request or abandonment).

B. 14-Day Notice. A utility must provide written notice of the intent to disconnect at least fourteen (14) calendar days before the stated disconnection date in any of the circumstances described in:

- Section 7 (A)(1) (failure to pay);
- Section 7 (A)(5) (refusal of access);
- Section 7 (A)(7) (fraud or material misrepresentation); or
- Section 7(A)(8) (undangerous tariff provision concerning utility delivery system)

C. 3-Day Notice. A utility must provide written notice of the intent to disconnect a customer at least three (3) business days before the stated disconnection date in any of the circumstances described in:

- Section 7(A)(2) (broken payment arrangement);
- Section 7 (A)(3) (failure to provide a deposit or guarantor);
- Section 7(A)(4) (failure to apply for customer status);
- Section 7(A)(9) (failure to comply with Commission decision), unless the Consumer Assistance Division or the Commission establishes a different notice period; or
- Section 9(H) (dishonored check).

D. Time of Issuance.

1. A utility cannot issue a disconnection notice for the circumstances described in Section 7(A)(1) (failure to pay an overdue amount) until at least thirty (30) days after the original bill is mailed. See Section 2(J) for when a bill is considered to have been mailed. A utility cannot issue a disconnection notice for the circumstances described in Section 7(A)(2) (broken payment arrangement) and 7(A)(3) (failure to pay

a deposit) until at least one (1) business day after the due date of the payment. In either case, a utility that mails disconnection notices from and requires that payment be sent to a location outside Maine must add five (5) calendar days to the time period established by this subsection.

2. A utility can issue a disconnection notice for the other circumstances described in Section 7 at any time after the applicable criteria are met.

3. A telephone utility can issue a disconnections notice no earlier than five (5) business days after the postmark of the original bill (or the date of the bill if it is mailed on that date) if:

a. the customer's account balance includes toll usage that exceeds \$500;

3. the customer has been notified of the accelerated collection procedures with or at the same time as the original bill;

c. the telephone utility makes personal contact with the customer or there is clear evidence of abandonment; and,

d. the customer has refused or failed to provide satisfactory evidence of his or her ability to pay or enter into a payment arrangement for the account balance.

E. Disconnection Date. The disconnection date stated in the notice must not be a Friday, weekend, legal holiday, the day before a legal holiday or a day when the utility's office is not open for public business. The term "legal holiday" is defined in 4 M.R.S.A. Section 1051.

F. Period of Effectiveness. A disconnection notice is effective for ten (10) business days after the disconnection date stated in the notice. If a utility fails to properly disconnect service within ten (10) business days after the disconnection date, the disconnection notice procedures must be repeated.

G. Refusal of Access by Customer. If a customer expressly refuses to allow the utility access to the meter or other fixture or device necessary to accomplish

disconnection, the ten (10) business day period provided in subsection F can begin on the date of the last refusal by the customer. This provision applies if the utility:

1. records the date, time and manner of each attempt to disconnect service and each express refusal by the customer to allow access; and
2. has no other reasonable means to disconnect the customer other than that refused by the customer.

H. Bad Check. If the customer has paid by a check which was not honored by the bank before the expiration of the disconnection notice, the utility must attempt to obtain payment by alternate means from the customer before disconnecting service. If a check is not honored after the expiration of the disconnection notice, the utility can issue a 3-day disconnection notice and require payment by cash or certified check. A disconnection notice issued as a result of a dishonored check supersedes any other pending disconnection notice.

I. Disconnection Notice Procedures for Leased or Rented Property.

1. A utility cannot disconnect a leased or rented dwelling at the request of a lessor, owner, or agent ("landlord") or because the landlord (as a customer) has failed to pay an overdue amount, unless:

- a. the tenant agrees in writing to the disconnection;
- b. the landlord signs a notarized statement that the premises are vacant;
- c. the utility by personal inspection determines that the premises are vacant; or
- d. the utility gives notice as described in paragraph

2. A utility must make every reasonable attempt to deliver the notice in person to at least one adult occupant of each dwelling unit. With respect to a single meter, multi-unit dwelling, the utility must also post the notice at or near the front and rear entrances to the building or buildings affected. The notice must, in addition to the applicable disclosures of subsection J, inform the tenant how service can be continued. A utility must either offer the tenant the opportunity to obtain service in the tenant's name or otherwise assume responsibility for further payment.

3. The disconnection notice must be mailed or delivered at least ten (10) days before the disconnection date stated in the notice.

4. Before the actual disconnection of service to a single-meter, multi-unit dwelling, a utility must:

a. have a tariff approved by the Commission that:

- i) assesses a reasonable fee for the collection of an unpaid account balance from the landlord, in addition to an applicable reconnection fee; and
- ii) authorizes the utility to separately meter each dwelling unit, at the landlord's expense, if the dwelling is disconnected for nonpayment of an overdue amount;

b. apply any existing deposit to the current account balance;

c. file the lien authorized by Title 35-A M.R.S.A., Section 706 and seek a writ of attachment; and,

d. notify the Consumer Assistance Division of the actions taken pursuant to this subsection and their results.

5. A utility cannot require the tenant to pay for any charges incurred by the landlord or demand a deposit or advance payment based on the landlord's credit history.

6. This subsection also applies if a municipality requests the utility to disconnect residential service at a dwelling where the municipality has temporarily put the service in its name on behalf of the occupant.

J. Content of Disconnection Notice. A disconnection notice must be in writing and conspicuously contain the following information:

1. the overdue amount or the exact reason for the disconnection if not for an overdue amount;

2. what the customer must do to avoid disconnection;

3. the disconnection date and the period for which the disconnection notice is effective;

4. a statement of the customer's right to postpone disconnection for a medical emergency of the customer or an occupant and a description of how to declare a medical emergency according to Section 11;

5. a statement that the customer can avoid disconnection by negotiating a payment arrangement with affordable monthly or weekly installment payments and that the overdue amount must be paid in a reasonable period of time. This disclosure is not required if the disconnection notice is for a broken payment arrangement;

6. a statement of the customer's right to submit a disputed matter before the disconnection date to: Consumer Assistance Division, Public Utilities Commission, 242 State Street, State House Station #18, Augusta, Maine 04333-0018; telephone 289-3831 or toll free 1-800-452-4699;

7. a statement that the customer cannot submit a dispute to the Consumer Assistance Division until the customer has first tried to resolve the dispute with the utility;

8. the title and telephone number of the appropriate utility representative and a statement that the call may be made collect from within the utility's service area, unless a toll free number is offered or calls within the utility's service area are toll free to the designated telephone number;

9. a statement of the reconnection charge, if any; and,

10. a statement of the utility's policy concerning the requirement of a deposit in the event of disconnection.

K. Plain Language Disconnection Notice. Every utility must use a plain language disconnection notice after February 1, 1989. The disconnection notice must be filed with the Commission, but does not require prior Commission approval before its use. A plain language disconnection notice should reflect the following guidelines:

1. The type size used in texts should be no smaller than 10 points high. The typeface (shape of the letters) should be designed to improve or enhance the visual size of the type. Headlines should be in larger or bold type. All text should be in capitals and lower case as opposed to ALL IN CAPITALS;

2. The color of the disconnection notice and type should avoid problems for persons whose "color deficient" sight makes all colors appear as shades of gray;
3. The use of reverse-blocks in which letters appear as white against a black or dark gray background should be avoided; and,
4. The headline on a disconnection notice should conspicuously be entitled "Disconnection Notice" in at least 12 point type.

L. Designation of Third Party to Receive Notices. Any customer may notify the utility in writing that he or she is designating a third party to receive notices concerning the customer's account. The utility must keep a record of the third party name, address and telephone number. Whenever the utility contacts the customer about matters related to deposits, disconnections, overdue amounts or hazardous conditions of utility service, the utility must make every reasonable effort to contact the third party and provide the same information at the same time it is provided to the customer. Any notice of disconnection provided to the third party must contain the disclosures required by subsection J. Nothing in this subsection obligates the third party to make payment of any amount owed by the customer, unless there is independent evidence of an obligation to pay. Every utility must inform applicants and customers of their right to designate a third party to receive notices.

10. DISCONNECTION PROCEDURES

A. Time. Disconnection must occur between 8:00 a.m. to 3:00 p.m. on the due date specified in the notice or during the effective period of the notice. Disconnection cannot occur on a Friday, weekend, legal holiday, the day before a legal holiday or a day when the utility's office is not open for public business. These restrictions can be varied if:

1. the utility has made special arrangements with the customer to disconnect at an alternative time;
2. access to the premises can only be obtained at an alternative time;
3. the disconnection is for a reason other than nonpayment; or

4. the utility has authorized personnel available to resolve disputes two hours after the disconnection occurs. In this case, the utility may disconnect service no later than 7 p.m.

B. Attempt to Contact. A utility must make a reasonable effort to contact the customer personally before disconnection occurs. This duty is met if an electric, gas and water utility:

1. contacts the customer by telephone prior to disconnection; or
2. attempts personal contact with the customer at the time of a premise visit to disconnect.

A telephone utility must make a reasonable effort to contact the customer by telephone before disconnection occurs.

C. Procedure Upon Contact Before Disconnection.

1. If the utility obtains contact with the customer before disconnection, the utility must attempt to avoid disconnection. In any case, an authorized utility employee must offer to fully explain:

a. the amount overdue or other reason for the proposed disconnection;
and

b. how the disconnection can be avoided, including:

- the customer's obligation to pay the overdue amount or enter into an installment payment arrangement;
- the right of the customer to file a dispute with the utility, and, if not resolved, file an informal appeal with the Commission;
- the duty of the customer to pay any portion of a bill which the customer does not honestly dispute; and
- how a medical emergency can be declared.

2. A utility employee who visits the premises to disconnect is not required to have the authority to negotiate or enter into payment arrangements or to accept payment or make change in order to avoid disconnection. If the utility employee is not authorized to fully explain the customer's rights and obligations as described in

paragraph 1, the employee must offer the customer the opportunity to communicate with an employee who has this authority before disconnecting the service.

a. If a customer offers to pay the overdue amount in order to prevent disconnection at his or her premises, the utility employee must either:

- i. accept payment, give a receipt and leave the service intact; or
- ii. direct the customer to the nearest location where payment is accepted and postpone disconnection for a reasonable time.

b. The utility can charge a reasonable fee when the overdue amount is paid in the situations described in subparagraph (a), above. The fee must not exceed \$10.00 or the utility's reconnection fee, whichever is less.

D. Post-disconnection Notice.

1. If disconnection occurs as a result of a premise visit, the utility must post or deliver a written notice to an occupant of the premises at the time of the disconnection. The written notice must contain:

- a. the address and telephone number of the utility;
- b. the overdue amount or other reason for the disconnection;
- c. the requirements for reconnection; and
- d. the procedure for declaration of a medical emergency.

2. A utility must mail the written notice required by this subsection within three (3) business days when:

- a. a customer's billing location is different from the service location;
- or,
- b. a premise visit was not required to disconnect.

11. MEDICAL EMERGENCY

A. General. A utility must not disconnect or refuse to reconnect the service to any dwelling when either the customer or the occupant is certified by a registered physician to be seriously ill or has a medical condition that will be seriously aggravated by lack of utility service.

B. Postponement of Disconnection Pending Receipt of Certification. If a customer or occupant gives oral or written notice to a utility employee of the existence of a medical emergency and that a certification will be obtained by a registered physician before disconnection, the utility must not disconnect for a least three (3) business days. If the certification is not received within three (3) business days, the utility may continue the disconnection procedure. The effective period of the disconnection notice can be extended to accommodate this three-day period if the utility orally informs the customer of the extension.

C. Certification Procedure and Contents. Certification of a medical emergency by a registered physician may be oral or written, but the utility may require written confirmation within seven (7) days of an oral declaration. A utility must accept an oral declaration by an employee or agent acting on behalf of the physician. The utility may require a written certification to include the following if the utility provides a form for the physician to complete:

1. the name and service location of the customer (to be provided by the utility);
2. the name and address of the person with the medical emergency;
3. a statement that a serious illness or medical condition exists which would be seriously aggravated by lack of utility service;
4. the anticipated length of the medical emergency;
5. the specific reason why continued service is required; and
6. the name, office address, telephone number and signature of the certifying physician.

D. Length of Postponement; Renewals.

1. A utility must not disconnect the customer for the time period specified in the certification or thirty (30) days, whichever is less. If the certification does not specify a time period or it is not readily ascertainable, the utility must not disconnect for a least thirty (30) days.

2. A utility is not required to extend the combination of initial and renewed certifications beyond ninety (90) days.

E. Reconnection of Service. When service is required to be reconnected under this Section, the utility must make a diligent effort to reconnect service on the day it receives the certification of medical emergency. In any case, service must be reconnected before the end of the next business day.

F. Customer's Duty to Pay or Make a Payment Arrangement. Whenever disconnection is postponed or service reconnected as a result of a medical emergency, the utility must inform the customer of the continuing duty to pay or make a payment arrangement for the amount overdue. A utility must offer to refer a customer to possible sources of financial assistance for the payment of the utility bill when a medical emergency is declared.

G. Condition of Renewal. A utility may require a customer to enter into a payment arrangement for an overdue amount as a condition of renewal of a medical emergency certification. A telephone utility may require the customer to obtain toll restriction services or limit toll usage to a specified amount if toll service is required for the medical emergency. If a customer refuses to enter into a payment arrangement as a condition of renewal of the certification or fails to comply with a payment arrangement negotiated as a condition of renewal, the utility can disconnect service only by obtaining an exemption from the Commission according to Section 14(B)(2).

H. Disconnection Upon Expiration of a Certification. A utility can begin disconnection procedures when a certification of medical emergency expires if the customer has failed to pay or enter into a payment arrangement for the amount overdue.

12. RECONNECTION OF SERVICE

A. Duty to Reconnect. If service has been disconnected, the utility must reconnect service promptly upon the customer's request when the cause of disconnection has been removed.

B. Payment Arrangement, Deposit. A utility must offer the customer a reasonable payment arrangement on the account balance if the disconnection was for nonpayment. If the utility demands a deposit before reconnection of service, the utility must offer the following options to the customer:

1. pay the deposit and enter into a payment arrangement for the amount overdue;
2. pay the amount overdue and enter into a payment arrangement for the deposit; or
3. pay the deposit and amount overdue in full.

The utility may require the customer to pay an authorized reconnection fee prior to reconnection or include the reconnection fee in the next bill.

C. Time. The utility must make a reasonable effort to reconnect service during business hours on the same day that it receives the request to reconnect. At the latest, reconnection must be made during business hours on the first business day after the request. If a customer requests reconnection to occur at other than regular business hours, the utility must inform the customer of the higher reconnection charge, if applicable, and make a reasonable effort to reconnect if requested, but the utility is not obligated to do so unless a medical emergency exists.

D. Reconnection Fee. A utility may file a tariff to charge a reasonable fee for reconnection during regular business hours and a higher fee for reconnection at other times.

13. DISPUTE RESOLUTION

A. Utility Employee Available.

1. A utility must provide at least one employee during business hours to respond to questions and resolve disputes from applicants and customers. The employee must be authorized to enter into payment arrangements and settle disputes on behalf of the utility. Utility employees who are responsible for receiving telephone calls and office visits from applicants and customers must be properly qualified and instructed in how to screen, handle promptly or refer questions disputes and requests for service to the appropriate person.

2. A utility with fewer than five (5) full-time employees or fewer than 300 customers is not required to have an informed employee available at all times during business hours. If such a utility achieves contact with a customer before disconnection, the utility must not disconnect the customer until it has offered the customer the opportunity to resolve a dispute or to avoid disconnection by contact with the employee who is authorized to resolve disputes and enter into payment arrangements.

B. Disconnection Prohibited; Utility Investigation.

1. A utility cannot threaten disconnection or disconnect a customer or applicant who has informed the utility that he or she disputes liability for all or any portion of a bill, deposit request, the terms of a payment arrangement, or the terms required by a utility in order to obtain service or to avoid disconnection. When a customer disputes a portion of a bill, a utility may demand payment of that portion not in dispute in order to prevent disconnection.

2. When the utility becomes aware of a dispute by a customer or applicant, whether or not disconnection is pending, the utility must:

- a. investigate the dispute, preserving a record of the substance and results of the investigation;
- b. report the results of the investigation to the customer based on the record; and
- c. attempt in good faith to resolve the dispute.

C. Notification of Right to File an Appeal With the Consumer Assistance Division. If the utility cannot resolve the dispute with the customer or applicant after the procedures of subsection B have been completed, the utility must orally inform the person with the dispute of his or her right to appeal the dispute to the Consumer Assistance Division and of the toll free telephone number of the Commission. If the dispute concerns a pending disconnection, the utility must orally inform the customer or applicant that the appeal must be filed before the due date of the disconnection notice or within two (2) business days if the due date has passed. During that time, the utility must not disconnect service.

D. Customer Duty to Pay Undisputed Amounts. A customer that disputes liability for any portion of the bill must pay the undisputed portion of the bill in order to avoid further collection action, including disconnection.

E. Investigation by the Consumer Assistance Division.

1. If a customer files an informal appeal with the Consumer Assistance Division, the utility must not disconnect or threaten disconnection on the disputed amount until the dispute is resolved according to the procedures of this subsection. If a customer files an appeal after disconnection has occurred, the customer is only entitled to reconnection pending resolution of the dispute if the utility has issued a disconnection notice that fails to conform to Section 9 or if the Director or Assistant to the Director of the Consumer Assistance Division finds reasonable grounds to believe that the utility has violated other provisions of this Chapter. If the Consumer Assistance Division orders the utility to reconnect according to this paragraph, the utility must reconnect without reconnection charges or deposit, if otherwise applicable.

2. The Consumer Assistance Division will notify the utility by telephone and confirm in writing that a dispute has been appealed and the date of the appeal. The Consumer Assistance Division will conduct an informal investigation of the dispute. The investigation may include:

- an informal meeting with the customer and a utility representative;
- review of the written record of the utility's investigation required by subsection B; and

- an examination of other written records, such as the billing and payment history of the customer, notice of disconnection and other written documentation determined by the Consumer Assistance Division to be relevant to the dispute.

3. The Consumer Assistance Division will complete its investigation and issue a decision on the merits of the dispute as soon as practicable, but no later than twenty (20) business days after it receives the appeal. The decision may be issued later if the utility agrees to an extension. An oral decision will be confirmed in writing within a reasonable time.

4. The decision by the Consumer Assistance Division will include orders which are just and reasonable in order to resolve the dispute, including, but not limited to:

- reconnection of service, deposit requirements;
- payment arrangement terms;
- an adjustment of late fees accrued since the dispute was appealed;
- a determination of whether a violation of this Chapter has occurred; and
- a determination that a utility may proceed with disconnection in appropriate circumstances.

5. Any written decision of the Consumer Assistance Division will inform both the customer and the utility of their right to appeal the Consumer Assistance Division's decision to the Commission and of the rights of either party while an appeal is pending before the Commission.

F. Appeal to the Commission.

1. Either the customer or the utility can appeal a decision of the Consumer Assistance Division to the Commission by filing notice of the appeal with Administrative Director of the Commission within five (5) business days after the date of the decision. The receipt of an appeal will be treated as a request for investigation according to 35-A M.R.S.A. Section 1303. A summary investigation will be conducted, after which the Commission will determine whether a formal investigation is warranted.

If a formal investigation is not begun, the Commission will inform the parties that failure to act in accordance with the decision of the Consumer Assistance Division will constitute grounds to commence a formal investigation according to 35-A M.R.S.A. Section 1303 and the initiation of a proceeding to issue a temporary order according to 35-A M.R.S.A. Section 1322. The summary investigation will be completed within thirty (30) days from the date the appeal is filed.

2. If the decision of the Consumer Assistance Division permits the utility to disconnect service and the customer has appealed to the Commission, the utility must not disconnect service. However, the utility may follow either of these two options:

a. The utility may petition the Commission in writing, requesting that it be allowed to disconnect service while the appeal is pending. The Commission will decide on the petition within seven (7) business days after the petition is filed. If the Commission determines, with or without hearing, that there is no reasonable likelihood that the customer will succeed in the appeal, the Commission will allow the utility to disconnect service to the customer on the basis of the dispute which is the subject of the appeal that is pending; or

b. The utility may bill the customer on an expedited basis for the value of the current service actually provided while the appeal is pending, using its normal method for measuring usage and determining the charge. Expedited bills must be for service periods of at least seven (7) days. The utility may require that expedited bills are payable upon receipt. The utility may, regardless of the amount of an expedited bill, disconnect service for nonpayment of an expedited bill not less than five (5) calendar days after mailing to the customer a notice conforming to the requirements of Section 9(J). Any payment arrangement agreed upon for paying the expedited billing does not have to conform to the requirements of Section 6(A)(3). The utility must not disconnect, however, if the dispute under appeal is based upon the alleged existence of a medical emergency as specified by Section 11, when the medical emergency certificate and renewed certificate, if any, have not expired.

c. The utility must notify the Commission of any disconnection made under the authority of paragraph (2). The disconnection will not operate as a dismissal

of the customer's appeal unless the customer specifically requests the dismissal. If the Commission sustains the customer's appeal, the utility must reconnect service to the customer and must not collect or require any reconnection charge or deposit. The customer remains liable for any undisputed charges.

3. If the Consumer Assistance Division's decision does not permit the utility to disconnect service to the customer, and if the utility has appealed to the Commission from that decision, the utility cannot disconnect service to the customer while the appeal is pending for any reason relating to the subject matter of the appeal. All provisions of this Chapter continue to apply to the utility and the customer unless specifically modified by this Section, except that the utility may petition the Commission for permission to disconnect in accordance with subsection (F)(2)(a).

G. Decision Permitting Disconnection. After the appeal period of a decision of the Consumer Assistance Division permitting disconnection has passed with no appeal taken, the utility can disconnect the customer without further notice unless a payment arrangement is made in accordance with Section 6 or unless the decision specifies different notice period. If the disconnection is not completed within ten (10) business days after the utility has received the decision or after the date specified in the decision, the utility must repeat the notice procedure. The ten (10) business day period may be extended in the manner described in Section 9(G).

14. EXEMPTION

The Commission may grant exemptions to the provisions of this Chapter.

A. For a Utility. The Commission may grant a utility's request to be exempt from one or more requirements of this Chapter for all or a portion of the utility's service territory upon finding that compliance would be unduly burdensome and that granting the request would not undermine the purposes of this Chapter.

1. A request for exemption from this Chapter must be in writing. The request must contain a complete explanation and justification for the exemption; the suggested alternative procedure, if any; and a description of how the request would not

undermine the purposes of this Chapter. The utility must send a copy of the request to the Public Advocate.

2. The Commission will determine whether and in what manner to solicit comments on the request from interested persons. Upon consideration of the request and any comments and upon appropriate findings, the Commission will either grant, deny, or grant with modifications the requested exemption.

3. The Commission may determine that the request "would not undermine the purposes of this Chapter" by imposing one or more performance standards on the utility as a condition of the exemption. Performance standards, for example, may include:

- the utility's customer appeal ratio with the Consumer Assistance Division;
- frequency of disconnection;
- level of uncollectible expense;
- frequency of deposit requests; and
- other criteria which measure the utility's efficiency in collecting bills, as well as criteria that protect the customer's rights to receive adequate service from a utility.

B. For an Individual Customer.

1. A utility may request an exemption to any provision of this Chapter in any case involving an individual customer whose conduct and known financial condition pose a clear danger of substantial losses to the utility. A request for an exemption must be addressed to the Consumer Assistance Division. The request must be written or oral, but an oral request must be followed promptly by a written confirmation by the utility. The written request or confirmation must include a detailed statement of the facts alleged by the utility in support of the request for an exemption. The utility making the request must immediately notify, in writing, the individual customer or applicant whose service would be affected by the proposed exemption, describing the nature and effect of the exemption requested and the facts alleged in support of the request.

2. The Consumer Assistance Division may reject, without investigation, any request that does not allege facts that satisfy the standard of paragraph 1. Before granting any exemption to any provision of this Chapter, the Consumer Assistance

Division will undertake an informal investigation of the matter. The investigation may include, but is not limited to:

- an informal meeting with the customer and a representative of the utility; and
- an examination of written records, such as billings, customer accounts, records of payment, notice of disconnection, and other written documentation the Consumer Assistance Division determines is relevant to the determination of whether good cause for an exemption has been shown in accordance with the standard of paragraph 1.

When the Consumer Assistance Division completes its investigation or summarily rejects the request, it will issue a decision granting, denying, or granting in part the requested exemption. When the Consumer Assistance Division completes its investigation and determines that an exemption is required to avoid further substantial losses to the utility, it will notify both the customer and the utility of the decision. The notification may be oral. The consumer Assistance Division will promptly issue a written confirmation of the decision. The decision or written confirmation must:

- describe the nature and effect of the exemption;
- the reasons why the exemption was granted or denied; and
- fully inform the customer and the utility of their right to appeal the decision of the Consumer Assistance Division to the Commission, according to paragraph 3 below.

3. Any party can appeal a decision by the Consumer Assistance Division granting, denying, or rejecting in whole or in part a request for an exemption according to the procedures in Section 13(F). However, the five (5) business days will begin on the date that the Consumer Assistance Division issues a written decision or a written confirmation of the decision. If an exemption is granted, the utility must not act on the exemption for at least the five (5) business days within which a customer may appeal an exemption.

C. For an Innovative Credit and Collection Program. A utility can request the Commission to be relieved from or to alter any provision of this Chapter without meeting the requirements of subsection A under the following circumstances:

1. The request is necessary in order to implement a pilot program that seeks to demonstrate a cost effective alternative to the primary reliance on disconnection to assure timely payment of overdue amounts by residential customers;

2. The pilot program will be operated in a sufficient scope and for a sufficient time in order to provide a reasonable estimation of its effectiveness;

3. The utility, before beginning the pilot program, submits detailed information on how the affected customers will be notified of the nature and purpose of the program; and

4. The utility agrees to report the results of the pilot program no later than six (6) months after the program ends. The results must include the actual costs and benefits to all customers affected by the pilot program and the projected costs and benefits to all customers if the utility seeks to expand the program.

The request for exemption must be submitted to the Commission with a copy to the Public Advocate. The Commission will determine whether and in what manner to solicit comments on the request from interested persons. When it has considered the request and any comments, and when it has considered whether the proposed program will meet the above criteria; the Commission will either grant, deny, or grant with modifications the requested exemption.

15. EMERGENCY MORATORIUM

When the Commission determines that, because of a general weather or health emergency, terminating or disconnecting the utility service of one or more utilities would present a clear danger to the health or safety of their customers, the Commission may declare a partial or complete moratorium on the disconnection of service, for an initial period of not more than ten (10) days. The Commission will renew the moratorium as

many times as the duration of the emergency requires, but no single renewal will be for a period longer than ten (10) days. A moratorium will not extend beyond the duration of the emergency and will prohibit terminating or disconnecting service only to the extent necessary to protect the health or safety of the customers affected by the emergency.

16. RECORD MAINTENANCE; REPORTING TO THE PUBLIC UTILITIES COMMISSION; PUBLIC INFORMATION

A. Record Maintenance. All utilities must preserve records of disputes for a period of two (2) years and must keep these records within this State at an office or offices located in the territory served by it. The records must be available for examination by the Commission. The dispute records must include the following:

1. the name and address of the applicant or customer with the dispute;
2. the date and subject matter of the dispute;
3. the record of investigation required by Section 13(B);
4. all communications to or from the customer regarding the dispute;
5. the adjustment or resolution offered to the customer; and
6. the final adjustment or resolution.

B. Reports to the Commission. Every utility must file the following information with its annual report to the Commission:

1. the average number of residential accounts;
2. the average residential customer bill per billing period;
3. the average number of residential accounts with overdue amounts per billing period;
4. the average dollar amount of residential overdue amounts per billing period;
5. the number of actual residential disconnection notices issued per month;

6. the number of actual disconnections for nonpayment and other reasons (except those at the customer's request) per month;
7. the number of reconnections following disconnection without consent per month;
8. the number of residential payment arrangements negotiated by type;
9. the number of residential deposits requested and received and their average dollar amount;
10. the number of residential applications for service that were denied;
11. the number of residential applications for service in which the utility demanded a deposit or payment arrangement according to Section 4(G) (after the request for service, but within 60 days);
12. the gross revenue from residential accounts;
13. the gross and net write-off for residential customers (or other figures which reflect uncollectible amounts);
14. the number of cases and dollar amount of unpaid debt pursued through the court system or other means, the costs of collection by each method, with an identification of those accounts in which the utility could have but did not transfer the prior debt to a current account according to Section 4(C) or 4(G); and
15. the total number of residential customer disputes handled.

C. Public Information. A utility must provide all new customers and current customers affected by a significant change with a summary of their rights and responsibilities under this Chapter. If there is a significant change to any requirement of this Chapter, the Commission will prepare a summary within six months after the effective date of an amendment. If a utility adopts a significant change to its billing, credit or collection procedures, the utility must prepare the summary. In any case, the summary must be in writing, reproduced by the utility, displayed prominently and available at all utility offices that are open to the general public. The summary must be mailed or delivered to all new customers and current customers affected by a change.

The written summary must contain information concerning, but not limited to, the following:

1. procedures for billing and for estimated billing;
2. methods for customers to verify the accuracy of their bills;
3. payment methods, locations, late fees (if any) and optional payment programs offered by the utility;
4. security deposit and guarantee requirements;
5. procedures for disconnection and reconnection of service;
6. dispute, informal appeal and formal appeal procedures;
7. explanation of meter reading procedures which would enable a customer to read his or her own meter;
8. procedures that customers or occupants may follow during emergency service interruptions, including how to notify the utility of the need for priority restoration due to the presence of life support systems;
9. procedures for having a third party receive copies of notices;
10. the utility's limitations on liability for service interruptions contained in the utility's tariff on file with the Commission, when a claim for abatement may be requested, and how a customer can submit a claim for damages or abatement due to service interruptions; and
11. telephone numbers and addresses of the utility and of the Commission where further inquiries may be made.

BASIS STATEMENT: The factual and policy basis for the rule is set forth in the Commission's Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 88-50, issued July 29, 1988. Copies of this Order and Statement have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director of the Public Utilities Commission, 242 State St., Augusta, ME 04333-0018.

AUTHORITY: 35-A M.R.S.A. §§ 104, 111, 704 and 1308

This Rule was approved by the Secretary of State on August 1, 1988 and will be effective on August 6, 1988.

17. WINTER DISCONNECTION RULE

A. Statement of Policy

1. The Public Utilities Commission adopts the general policy that utility bills should be paid by the date due. However, it is also the Commission's policy that during the winter months, when severe weather conditions can pose a threat to health and safety, residential customers of electric and gas utilities should not be disconnected because of their inability to pay the entire amount owed by the due date.

2. The Public Utilities Commission adopts the general policy that electric and gas utilities should attempt to contact all customers who are in arrears by more than \$50 as indicated on bills issued from November 1 through March 31, and establish a Regular or Special Payment Arrangement.

3. The Public Utilities Commission adopts the general policy that customers who enter into a Regular or Special Payment Arrangement should be required to the extent possible to pay a reasonable portion of each utility bill when due during the winter period and to avoid an accumulation of arrearages that will be difficult to pay on a reasonable schedule during the summer months.

These policies shall be taken into account by the utility and the Consumer Assistance Division when acting under this Section.

B. Definitions.

For purposes of this Section, the following shall apply:

1. "Winter Disconnection Period" means the period beginning November 15 of each year and continuing through April 15 of the following year.

2. "Notice of Customer Rights" means an easily understood explanation of the customer's rights and responsibilities under this Section. A written Notice of Customer Rights shall be in the form contained in Part N. An oral Notice of Customer Rights shall include the following information:

a. Eligible customers will be provided an opportunity to enter into a Special Payment Arrangement. If the utility and the customer fail to agree on the terms of the Special Payment Arrangement, the utility must submit the matter to the Consumer Assistance Division. If the customer fails to contact the utility to make a payment arrangement or if the customer fails to make payments according to the payment arrangement, the customer can be disconnected if the utility receives authorization from the Public Utilities Commission.

b. All other customers will be provided with an opportunity to enter into a Regular Payment Arrangement.

c. A general description of the payment arrangement options offered by the utility.

d. A description of the standards by which the customer's eligibility is measured, in accordance with Part B(5), and a statement that the customer may claim eligibility on the form provided in Part M.

3. "Regular Payment Arrangement" means a payment arrangement as provided in Section 5 of Chapter 81.

4. "Special Payment Arrangement" means a payment arrangement in which the eligible customer may pay less than the full amount of bills as they become due. Special Payment Arrangements shall require that the customer make regular monthly payments established according to the guidelines set forth in Part H of this Section.

5. "Eligible Customer" means that the customer is not able to pay for utility service in accordance with the terms of the bill without exposing the customer or other members of the customer's household to the probability of deprivation of food or other necessities for health or life. A customer shall be presumed to be eligible if the customer qualifies for the Home Energy Assistance Program (HEAP), if the customer's household income does not exceed 150% of the applicable Office of Management and Budget (O.M.B.) Poverty Guidelines, or if the customer receives Supplemental Security Income (SSI). A customer who, absent the demonstration of the material deterioration of financial circumstances, has failed to complete a Regular or Special Payment Arrangement entered into during the previous 12-month period shall not be entitled to a Special Payment Arrangement during the current year, but may be treated in accordance with Part J.

6. "Consumer Assistance Division" means the Consumer Assistance Division of the Public Utilities Commission.

7. "Residential Unit" means an occupied dwelling which receives gas and/or electric service, regardless of whether the occupant is the customer of the utility.

8. "Utility" means any gas or electric public utility as defined in 35 M.R.S.A. §15.

9. "Personal Contact" means contact between the utility and the customer either in person or by telephone. The purpose of personal contact is to ensure that the customer receives an oral summary of his or her rights as provided for in this Section and is given all reasonable assistance in understanding these rights. Personal contact can be initiated either by the customer or the utility and may take place anywhere provided the communication is sufficient to provide the required notice and assistance. Delivery of a written notice to a customer's residence alone does not constitute personal contact.

C. Applicability

1. General. Notwithstanding any other provision of Chapter 81, no utility shall disconnect or send a notice for disconnection of a residential customer with a disconnection date within the Winter Disconnection Period if the total past-due is less than \$50.

2. Continuing Applicability of Chapter 81. Except as specifically varied by this Section, the provisions of Sections 1 through 16 of Chapter 81 shall continue to apply.

3. Size of Utility. Utilities with more than 10,000 residential customers shall be subject to all Parts of this Section except Part O. All other utilities shall be subject to Part O of this Section.

D. Disconnection Notice Accompanied By Communication with Customer.

Every disconnection notice affecting a residential unit issued from November 1 through March 31 shall be accompanied by a written Notice of Customer

Rights in the form contained in Part N. Unless the amount owed for which the disconnection notice was sent has been paid, whether or not the utility actually intends to disconnect, a representative of the utility shall attempt to make personal contact with the customer in person or by telephone before the proposed disconnection date. Upon making personal contact, whether initiated by the utility or the customer, the utility representative shall orally provide the Notice of Customer Rights and give the customer all reasonable assistance to ensure his or her understanding of said rights. If the utility is not able to make personal contact with the customer, the utility must then proceed in accordance with Part G and attempt to make contact in the manner described therein; provided that, if the utility fails to make such personal contact by April 15, the utility is not required to proceed in accordance with Part G, but may proceed in accordance with Chapter 81.

After March 31, a utility may not send a disconnection notice to any customer whose bills issued from November 1 through March 31 indicates an arrearage, unless the utility made a good faith effort to make personal contact with the customer and establish a Special or Regular Payment Arrangement. With respect to any such customer, the utility must attempt to make personal contact in accordance with Parts D and G and to establish a Special Payment Arrangement, regardless of the customer's eligibility. If the customer refuses to enter into a Special Payment Arrangement, the utility may disconnect upon 14 days notice in accordance with Chapter 81.

E. Determination of Eligibility.

Upon making personal contact and after providing the oral Notice of Customer Rights, the utility representative shall inquire of the customers whether he or she believes that he or she is eligible within the meaning of Part B(5). If the customer states his or her belief of his or her eligibility, the utility representative shall provide the customer with a copy of an eligibility form as set out in Part M and ask the customer to complete and sign the form. If the personal contact is made by telephone, the representative shall accept the customer's oral claim of eligibility with the same effect as if the claim had been made in writing.

Once the customer makes a written or oral claim of eligibility, the utility shall proceed in accordance with Part H. In the event that the customer does not make a written or oral claim of eligibility, the utility shall proceed in accordance with Part J.

F. Utility's Right to Challenge Eligibility.

If the claim of eligibility is oral, the utility may require the customer to confirm the claim by returning the signed and completed form set out in Part M within 5 business days after the utility sends the form, postage prepaid, to the customer. The utility shall also warn the customer in writing of the consequences of a failure to confirm the oral claim. If the customer fails to so confirm the claim, the customer's right to treatment under Part H, including any Special Payment Arrangement entered into thereunder, may be terminated, in which case the utility shall then proceed in accordance with Part J.

In the event that the utility believes that, a written claim notwithstanding, the customer is not eligible, it may appeal the written claim to the Consumer Assistance Division, which shall be empowered to investigate and determine the customer's

eligibility. The utility shall state all reasons to the Consumer Assistance Division supporting its belief that the customer does not meet the definition of eligibility. The utility shall continue to treat the customer in accordance with Part H until the Consumer Assistance Division has rendered its decision in writing, which it must do within 10 business days of the utility's appeal.

If the Consumer Assistance Division determines that the customer is eligible, the utility shall continue to treat the customer in accordance with Part H. If the Consumer Assistance Division determines that the customer is not eligible, the customer's right to treatment under Part H, including any Special Payment Arrangements entered into thereunder, may be terminated, in which case the utility shall then proceed in accordance with Part J.

G. Failure to Make Personal Contact with Customer

1. Unoccupied Dwellings.

If the utility after every reasonable attempt, including at least one visit to the residential unit, at which time a written Notice of Customer Rights shall be left at the premises, is unable to make personal contact with the customer and it appears reasonably certain from an on-site inspection that the unit is not inhabited, the utility shall provide a written Notice of Customer Rights by first class mail to the last recorded billing address of the customer. This Notice shall be accompanied by an addressed, postage prepaid eligibility form, set forth in Part M, and a warning that, if a response is not received within 5 business days of the postmark date, the service may be disconnected. If a response is received within 5 business days after the postmark date, the utility shall proceed in accordance with the requirements of Part E. If no response

has been received by the utility within 5 business days after the postmark date, the service may be disconnected in accordance with Section 2(A)(5) of Chapter 81.

If, following disconnection, the residential unit is found to be occupied, the utility must reconnect service and proceed in accordance with the requirements of Section 17 of Chapter 81.

2. Occupied Dwellings.

If the utility after every reasonable attempt, including at least one visit to the residential unit, at which time a written Notice of Customer Rights shall be left at the premises, is unable to make personal contact with the customer and it does not appear reasonably certain from an on-site inspection that the unit is not inhabited, the utility shall provide a written Notice of Customer Rights by first class mail to the last recorded billing address of the customer. This Notice shall be accompanied by an addressed, postage prepaid eligibility form, set forth in Part M, and a warning that if a response is not received by the utility within 5 business days, the utility may seek permission to disconnect. If a response is received within 5 business days after the receipt date of the mailing, the utility shall proceed in accordance with the requirements of Part E. If no response has been received by the utility within 5 business days after the receipt date of the mailing or the mailing is returned to the utility undelivered, the utility may seek permission to disconnect from the Consumer Assistance Division pursuant to Part I(2).

H. Special Payment Arrangement.

The following provisions apply to customers who have made a written or oral claim of eligibility under Part E and G:

1. Agreement. The utility shall in good faith attempt to establish a Special Payment Arrangement for the entire amount owed at the time of the agreement and for amounts expected to be incurred so that the customer's account will not be in arrears as of the subsequent November 1.

2. Written Guidelines. A utility subject to this Part shall adopt written guidelines which describe the types of Special Payment Arrangements offered by that utility. The utility shall annually submit a copy of the guidelines for the establishment of Special Payment Arrangements to the Consumer Assistance Division no later than November 15. The guidelines shall include the following provisions:

a. Standard Payment Plan Options. The utility shall offer at least one standardized Special Payment Arrangement to all eligible customers. This standard payment option shall require level monthly payments based on either:

- (i) an annualized or budget payment plan; or
- (ii) a combination of level payments prior to the issuance of the March bill which are not less than the customer's average summer bill, and level payments beginning with the bill issued in March that reflect one-seventh of the total of the following: the arrearage at that time; the March bill; and estimated bills through September.

In any case, the standardized payment plan shall be designed to pay any arrearage, incurred prior to entering the Special Payment Arrangement or as a result of

the level monthly payments required by the Special Payment Arrangement, by the following November 1.

b. Individualized Payment Plan. If a customer can demonstrate that he or she cannot maintain a Special Payment Arrangement based on at least one of the Standard Payment Plan options contained in the utility's guidelines, including, but not limited to, the amount or timing of the level payments, a Special Payment Arrangement shall be negotiated based on factors unique to the customer, such as the amount of money owed, the customer's ability to pay, the customer's payment history, the time the debt has been outstanding, the reasons why the debt has been outstanding and other relevant factors. Individualized payment plans shall, where possible, result in leveled payment;

c. Information Required. The utility shall inform the customer of at least one local, regional or statewide agency other than the Consumer Assistance Division which either can provide direct financial assistance to eligible customers for the payment of utility services or who is knowledgeable concerning such sources of possible assistance. The utility shall not be responsible for determining whether individual customers are eligible for such assistance. The utility shall inform the customer that, at the customer's request, the utility shall provide to any possible source of financial assistance for the customer the (1) total amount of arrearage; (2) the average monthly bill of the customer under one or more of the standard payment options offered by the utility; and (3) a statement that disconnection may result if the

customer fails to enter into a Special Payment Arrangement or fails to make payments under a Special Payment Arrangement; and

d. Conservation Measures. The utility shall offer as a condition of the first Special Payment Arrangement offered to any customer during the current Winter Disconnection Period any no-cost energy conservation measures, including, but not limited to, an energy audit, which have been approved or ordered by the Public Utilities Commission for any class or category of residential customers. Customers shall accept the measures to the extent they have the authority to do so.

3. Role of the CAD. If the customer and the utility are not able to agree on the terms of the Special Payment Arrangement, the utility shall inform the Consumer Assistance Division. The Consumer Assistance Division may specify the terms of the Special Payment Arrangement.

4. Form. The provisions of any Special Payment Arrangement shall be reduced to writing by the utility. The utility shall either deliver a copy to the customer at the time the agreement is made or mail a copy of the agreement to the customer within three (3) business days of the time an oral agreement is made.

5. Failure to Comply with a Payment Arrangement.

a. Unless a material deterioration in financial circumstances is demonstrated by the customer, a customer who has failed to complete a Regular or Special Payment Arrangement on bills accrued during the previous 12-month period shall not be entitled to a Special Payment Arrangement under this Part, but may be treated in accordance with Part J.

b. If a customer fails to comply with the terms of a Special Payment Arrangement during the same Winter Disconnection Period in which it was made, the utility shall attempt to establish a second Special Payment Arrangement. If the customer fails to comply with the terms of a second or subsequent Special Payment Arrangement, the utility may attempt to establish another Special Payment Arrangement or it may seek permission to disconnect pursuant to Part I. A utility which attempts to establish a second or subsequent Special Payment Arrangement shall not be required to make a visit to the residential unit in attempting to make personal contact.

c. If the customer fails to comply with terms of a Special Payment Arrangement after April 15 and after the receipt of the written statement required by Part H(6), the utility may disconnect in accordance with Sections 1-16 of Chapter 81, unless said disconnection would occur on or after November 15, provided that an extra six (6) days shall be allowed to disconnect a customer whose bill is due between November 1 and 15. Unless a material deterioration in financial condition is demonstrated by the customer, when a customer is disconnected after April 15 for failure to comply with the terms of an original or renegotiated Regular or Special Payment Arrangement and reconnected, the payment arrangement established upon reconnection shall specify that the outstanding arrearages be paid by November 1.

6. Written Statement Concerning Installment Payments.

After March 1 and before May 31, the utility shall provide each customer who made a Special Payment Arrangement with a written statement of the total amount due and the amounts and payment schedule in order to pay the total amount by November 1.

I. Permission Required to Disconnect.

1. During the Winter Disconnection Period, a utility may not disconnect an eligible customer except in the following circumstances and only after it has received the authorization of the Consumer Assistance Division:

a. The customer rejects the opportunity to make a Special Payment Arrangement, if applicable, or does not agree to the terms specified by the Consumer Assistance Division.

b. The customer fails to comply with the terms of a second or subsequent Special Payment Arrangement, if applicable.

2. During the Winter Disconnection Period, a utility may disconnect, if it receives the authorization of the Consumer Assistance Division, if the utility is not able to make contact with the customer as specified in Part G(2).

3. Any utility seeking to disconnect shall submit its request including all supporting reasons in writing and send a copy to the customer. The Consumer Assistance Division must render its decision within 10 business days, which decision shall be confirmed in writing as soon as possible. In making a decision with respect to such authorization, the Consumer Assistance Division shall consider the individual

circumstances of the customer, including the customer's efforts with respect to communication and cooperation with the utility and the Consumer Assistance Division, ability to pay, need for utility service during the Winter Disconnection Period, and compliance with the provisions of previous Special Payment Arrangements and Regular Payment Arrangements and shall also consider the utility's compliance with the requirements of this Section with respect to the customer. In denying a request to disconnect, the Consumer Assistance Division may set the terms for a Special Payment Arrangement for the customer.

J. All Other Customers.

If the customer does not claim eligibility, is declared ineligible by the Consumer Assistance Division pursuant to Part F, or is otherwise not entitled to enter into a Special Payment Arrangement, the utility shall attempt to enter into a Regular Payment Arrangement with that customer for all bills the nonpayment of which would result in disconnection of the customer's service during the Winter Disconnection Period pursuant to Section 5 of Chapter 81. If the utility and the customer do not agree on the terms of a Regular Payment Arrangement, the utility may disconnect in accordance with the provisions of Sections 4 and 5 of Chapter 81. If a customer fails to comply with the terms of a Regular Payment Arrangement during the Winter Disconnection Period, the utility must act in accordance with Part D of Section 17.

K. Disputed Amounts.

L. Winter Disconnection Rule Eligibility Form

My reasons are: (Check Appropriate Box)

(Add \$2,820 for each addition household member).

_____ \$ _____

[] (3) My household is dependent on Supplemental Security Income (SSI).

[] (4) Although I do not meet the above Guidelines, I cannot pay my bill because: _____

I have _____ have not _____ applied for financial assistance to pay all or part of my utility bills. The name of the town, agency or program that I have applied to is _____.

Although I cannot pay all of my bill at this time, I am willing to enter into an agreement to pay a regular amount on my bills during the winter. I will pay the rest of my winter bills over the spring and summer months along with my current bills during this period and have all bills paid in full by the next November 1.

Name: _____ Date: _____

Address: _____ Telephone: _____

IF YOU DO NOT UNDERSTAND THIS FORM, FIRST ASK THE PERSON WHO HAS GIVEN IT TO YOU TO EXPLAIN IT. IF YOU ARE STILL NOT SATISFIED THEN CALL THE CONSUMER ASSISTANCE DIVISION OF THE MAINE PUBLIC UTILITIES COMMISSION TOLL FREE AT 1-800-452-4699.

The utility shall fill in the currently applicable Office of Management and Budget (O.M.B.) Poverty Guidelines.

The following utilities shall provide the Winter Disconnection Rule Eligibility Form in both English and French in the designated areas:

Central Maine Power Company	All residential customers with a Lewiston or Biddeford zip code
Maine Public Service Company	All residential customers
Northern Utilities, Inc.	All residential customers in Lewiston and Biddeford

M. Written Notice of Customer Rights. All electric and gas utilities shall include a copy of the Notice of Customer Rights in the following form with all bills rendered to a residential customer from November 1 through March 31 and as required in Part D and Part G, provided that any utility which conducts a customer contact program as described in Docket No. 82-276 shall be required to include a copy of the Notice of Customer Rights with only the first bill rendered during this period, subject to the conditions stated in Docket No. 82-276.

AVOID WINTER DISCONNECTION

YOUR RIGHTS

If you are unable to pay your electric [gas] bill this winter, you can avoid losing your service. To do so ---

1. You must contact us. You must let us know that you cannot pay your bill. We cannot help you if you do not let us know you cannot pay. Call us at _____.
2. You must be eligible. If you have to choose between paying for food, medicine, heat, or some other necessity and paying you electric [gas] bill, you probably qualify for a Special Payment Arrangement. If you receive SSI, or if you are eligible for HEAP, or if your income does not exceed 150% of the federal poverty guidelines you are eligible. We may require to sign a form stating that you are unable to pay your winter bills on time. For the 19 -19 Winter Period, 150% of poverty is as follows:

[insert current poverty guidelines, as contained in Eligibility Form in Part M]

3. In order to avoid disconnection you must enter into a payment arrangement. We will offer you several payment options to pay your winter electric [gas] bills in monthly payments that you can reasonably afford. In any case, you must pay all that you owe us by the following November 1.
4. You may be entitled to financial assistance from State or local government agencies or other private sources in order to help you pay your utility bills. We cannot obtain that assistance for you, but we may be able to refer you to others who can help you apply. In addition, we may be able to provide you with or refer you to others who can provide no-cost energy audits, weatherization or other measures to reduce high electricity [gas] usage and reduce your monthly bill.
5. Failure to contact us may result in disconnection with the approval of the Consumer Assistance Division of the Maine Public Utilities Commission.

If you have questions, call us at _____. If you are not satisfied, call the Consumer Assistance Division of the Maine Public Utilities Commission TOLL FREE AT 1-800-452-4699.

YOU MUST TAKE THE FIRST STEP. DO NOT LET YOUR ELECTRIC [GAS] BILL GET AHEAD OF YOU.

The following utilities shall provide the Notice of Customer Rights in both English and French in the designated areas:

Central Maine Power Company

All residential customers with a
Lewiston or Biddeford zip code

Maine Public Service Company

All residential customers

N. Special Rules for Small Utilities.

Smaller utilities shall comply with the requirements of Sections 1-16 of Chapter 81, and Parts A through C and O through Q of this Section with the exception that:

1. A Notice of Customer Rights explaining the customer's rights under Sections 1-16 of Chapter 81 shall be provided to all customers with the first bill rendered on or after November 1. The Notice shall generally conform with the form notice in Part N and shall include reference to the right to a Regular Payment Arrangement, prohibition on disconnection during a medical emergency, and the telephone number of the Consumer Assistance Division for further assistance.

2. The utility shall comply with the Statement of Policy in Part A of this Section.

3. Before actually disconnecting any customer during the Winter Disconnection Period, the utility shall request the Consumer Assistance Division for authorization to disconnect. Any such request shall be subject to Part I(3).

4. Van Buren Light & Power District shall provide the written notice described in 1, above, and disconnection notices in French and English and any oral communication concerning disconnection or collection of bills shall include a statement as to the availability of written notices in English and French.

5. The utility shall file with the Commission a copy of all notices, bill inserts or additions, forms, and instructional materials which it develops and uses pursuant to Part O.

If the Consumer Assistance Division has received appeals from more than 1% of the utility's residential customers with respect to collection or disconnection practices during the Winter Disconnection Period or has reason to believe that the utility's practices violate the policy statement in Part A, it shall so inform the Commission, which may then decide to terminate the utility's coverage under this Part and place it under Parts A through N, P and Q.

O. Violations of Winter Disconnection Rule.

All utilities subject to the Winter Disconnection Rule are hereby placed on notice of the Commission's intent to take action under 35 M.R.S.A. §§314, 352 and 357 against utilities that violate Section 17 of Chapter 81. The Director of the Consumer Assistance Division shall report all utility violations of Section 17 which come to the attention of the Consumer Assistance Division to the Commission for consideration of action pursuant to 35 M.R.S.A. §§314 352 and 357. Violations occurring in good faith as a result of the issuance of this Rule close to the commencement of the Winter Disconnection Period shall not be subject to such action.

P. Exemptions.

Any utility seeking an exemption from any of the requirements of Section 17 of the Chapter 81 shall do so by submitting a request in writing. The request shall contain a complete explanation and justification for the exemption and a copy of the language proposed to achieve the exemption. the utility shall send a copy of the request to the Public Advocate and all electric and gas utilities subject to the Winter Disconnection Rule. Comments must be filed with the Administrative Director of the

Commission within 15 days of the date of the request for exemption. The Commission, after due consideration of the comments and upon a finding that the policies of the Winter Disconnection Rule will not be unnecessarily impaired, may either grant, deny, or grant with modifications the requested exemption. For the 1986-1987 winter period only, the November 1 date shall be November 15 with respect to the requirement to include the written Notice of Customer Rights with disconnection notices pursuant to Part D and customer bills in Part N and Part O.

BASIS STATEMENT: The factual and policy basis for this rule is set forth in the Commission's Order Adopting Rule and Statement of Factual and policy Basis, Docket No. 86-73, issued October 27, 1986 and in the Commissions' Order Adopting Amended Rule, Docket No. 99-826 issued February 2, 2000. Copies of this have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director of the Public Utilities Commission, 242 State Street, Augusta, Maine 04333-0018.

AUTHORITY: 35 M.R.S.A. §§111, 704

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General on March 9, 2000.
It was filed with the Secretary of State on March 10, 2000 and will be effective on March 15, 2000.

APPENDIX A: CHAPTER 81

ONLY FOR UTILITIES WHO QUALIFY UNDER SECTION 1 (B)(2)

1. STATEMENT OF PURPOSES; JURISDICTION

A. Purposes. The purposes of this Chapter are:

1. To assure safe and adequate provision of residential utility service;
2. To assure that service is not disconnected or refused unreasonably;

and

3. To assure the utility's right to collect proper bills for residential utility service.

Every privilege that is granted and every duty that is required by this Chapter imposes an obligation on utilities, applicants and customers to accept these privileges and perform these duties with good faith, honesty and fairness.

This Chapter defines the minimum standards for nondiscriminatory practices that all utilities must follow. It does not, however, limit the power of utilities to give greater protection to their customers above these minimum standards.

B. Jurisdiction.

1. This Chapter applies to all electric, gas, telephone and water utilities that are subject to the jurisdiction and supervision of the Commission. A particular class or individual utility may be specifically exempt from one or more provisions of this Chapter by a Rule or Order of the Commission.

2. A utility that has less than 1500 residential customers as reported in the utility's most recent annual report on file with the Commission is exempt from this Chapter except for the provisions listed below. If a utility is an affiliated interest (as defined in 35-A M.R.S.A. Section 707) of one or more utilities that are subject to the Commission's jurisdiction, it qualifies for this exemption only if the total residential customers of the utility and the affiliated interests is less than 1500 residential customers. If a utility is exempt under this provision, it must comply with the following provisions:

- Section 1;
- Section 2;
- Section 4(A) and (I);
- Section 5(A) through (C) and (E);
- Section 6;
- Section 7(A) through (B);
- Section 8;
- Section 9(A) through (J);
- Section 10(A) and (B);
- Section 11(A);
- Section 12;
- Section 13;
- Section 15;
- Section 16(C); and
- Section 17 (O).

Appendix A to this rule is a compilation of these sections.

3. This Chapter supersedes the conflicting provisions of any tariff on file with the Commission. A utility must submit tariffs that correct any conflict with the provisions of this Chapter before February 1, 1989.

4. This Chapter applies to the collection of amounts owed by a customer who is provided with residential utility service in Maine, whether or not the utility is regulated by the Commission, to the extent not preempted by federal law.

5. Any reference to a prior version of this Chapter in a utility tariff, Commission Rule or Order will be interpreted to refer to the equivalent provision of this Chapter if there is an equivalent provision.

2. DEFINITIONS.

The following terms have the following meanings, unless the context clearly indicates a different meaning:

A. Account Balance. "Account balance" means the total amount owed by a customer that has been properly billed by a utility in accordance with this Chapter.

B. Amount Overdue. "Amount overdue" means the amount that a utility has properly billed to a customer that has not been paid in full by the due date of the bill or by a date otherwise agreed upon.

C. Applicant. "Applicant" means any person who applies for residential utility service and who is not a customer of the utility.

D. Bill. "Bill" means a written statement from a utility to a customer that states the amount owed by the customer for the current billing period, the amount overdue, the account balance, late fees and any other charges lawfully owed by the customer.

E. Commission. "Commission" means the Maine Public Utilities Commission.

F. Consumer Assistance Division. "Consumer Assistance Division" means the Consumer Assistance Division of the Commission.

G. Customer. "Customer" means any person who has applied for, been accepted and is either receiving residential utility service or has agreed to be billed for residential utility service. This term also includes a person who was a customer of the same utility within the past thirty (30) days and who requests service at the same or a different location.

H. Deposit. "Deposit" means any payment, however designated, that is held as security for future payment or performance and that is reimbursable after the customer establishes that the circumstances that originally justified the request for payment no longer exist.

I. Dispute. "Dispute" means a grievance of a customer or applicant about a utility's application of any provision of this Chapter. Situations of dispute include, but are not limited to:

- credit determination;
- deposit requirements;
- the accuracy of meter readings or bill amounts;
- the proper person to be charged;
- the terms of a payment arrangement;
- the terms in order avoid a pending disconnection; and
- the terms in order to obtain a reconnection.

If a customer or applicant has a grievance and then indicates that the response from the utility's employee was satisfactory, the contact between the customer or applicant and the utility will not be considered a dispute.

J. Due Date. The "due date" is the last day the bill must be paid in order to avoid payment of late fees or the initiation of collection action for an overdue amount. The "due date" of a bill must be no less than twenty-five (25) days after the bill is mailed or hand delivered to the customer. If the utility mails its bills to customers from a location outside Maine and requires customers to mail payment to a location outside Maine, the "due date" must be extended five (5) days (for a total of thirty (30)). A bill is considered to have been mailed on the date it is postmarked. If there is no postmark, a utility must date the bill and mail the bill on or before that date.

K. Dwelling. "Dwelling" means a house, apartment, mobile home or single-meter multi-unit structure that is provided with utility service for personal, family or household use.

L. Non-basic Utility Service.

1. "Non-basic utility service" means residential utility service that meets any of these conditions:

- a. The Commission does not regulate the rate or charge for the service;
- b. The rate or charge for the service is not contained in the utility's tariffs; or
- c. The service is for merchandise or equipment that is not required as a condition of receiving utility service.

2. "Non-basic utility service" does not include toll service charges, including interstate access charges, billed by a telephone utility under a contractual arrangement with the provider of the toll service.

M. Occupant. "Occupant" means any person who resides in a dwelling that is provided with residential utility service.

N. Payment Arrangement. "Payment arrangement" means an agreement between a customer or applicant and a utility that allows the account balance or deposit to be paid in one or more installments. Specific types of payment arrangements are described in Section 4(F), 5(G), 6(A) and 17(H) of this Chapter.

O. Registered Physician. "Registered physician" means a physician or surgeon licensed under Title 32 M.R.S.A. Section 3270, et seq. or an osteopathic physician licensed under Title 32 M.R.S.A. Section 2571, et seq.

P. Residential Utility Service. "Residential utility service" means utility service provided to a dwelling. It includes service provided for a nonresidential purpose, if a residential dwelling is receiving service on the same meter. Utility service provided to a hotel or motel is not residential service.

Q. Unauthorized Use. "Unauthorized use" means the unreasonable interference or diversion of utility service. Unauthorized use includes:

- tampering with the meter (any act which affects the proper registration of service through a meter);
- by-passing (unmetered service that flows through a device connected between the service line and customer-owned facilities);
- or
- restoring service without authorization.

3. Utility. "Utility" means any electric, gas, telephone or water utility subject to the provisions of this Chapter.

4. APPLICATION FOR SERVICE

A. Policy. A utility must apply credit and deposit policies to applicants in an equitable and nondiscriminatory manner, without regard to race, sex, age, national origin or marital status.

B. Explanation of Charges. A utility must disclose the following information at the time an applicant requests service:

1. non-recurring installation, application or registration fees charged by the utility for the type of service requested;
2. if optional services are available, the charge for any optional service offered to the customer; and
3. the recurring charge for the minimum or least cost class of service available to the applicant.

5. DEPOSITS

A. Collection. A utility may demand a deposit from a customer or applicant only if the utility has proof that the customer or applicant is likely to be a credit risk or to damage the property of the utility. The term "proof that a customer or applicant is likely to be a credit risk" means positive, specific, personal, financial information obtained from any reasonably reliable source that demonstrates that the customer or applicant more likely than not cannot or will not pay the utility for the service provided. The following reasons, either alone or in combination, do not establish this proof:

- a history of late payment;
- lack of employment or income;
- irregular or brief employment;
- lack of previous credit history with the utility;
- credit history of the dwelling; or
- collective credit experience of the area where the customer or applicant lives.

1. Applicants. Proof of any one of the following is prima facie "proof that the applicant is likely to be a credit risk":

- a. An undisputed account balance for residential utility service is unpaid at the time that the applicant requests service. The amount must be either:
 - i) for service provided within the past six (6) years from the utility from whom the applicant requests service; or
 - ii) for residential utility service provided by any utility within the past twelve (12) months;

- b. An unpaid, undisputed account balance for residential utility service provided with the past six (6) years was not paid until after the utility obtained a court judgment;
- c. The applicant was disconnected for nonpayment of an undisputed bill, or for unauthorized use or theft of service by any utility within the past twelve (12) months; or
- d. The applicant entered into a wage-earner plan under Chapter 13 of the Federal Bankruptcy Act and the Bankruptcy Court dismissed the plan for failure to comply with its terms within the past six (6) years.

2. Customers. Proof of any one of the following is prima facie "proof that the customer is likely to be a credit risk":

- a. the customer files a petition under the Federal Bankruptcy Act when the Federal Bankruptcy Act allows the utility to demand a deposit; or
- b. The customer requests that service be reconnected at the same or different location after the customer was disconnected for nonpayment, unauthorized use or theft of services.

3. The provisions of paragraphs 1 and 2 are not an exclusive list of all conditions, events, or circumstances that may be evidence of "proof that an applicant or customer is likely to be a credit risk."

4. In order to determine whether an applicant is "likely to be a credit risk" a utility may attribute to an applicant the financial condition and credit history of his or her spouse only if:

- a. both spouses are residing at the same location; and
- b. the applicant has no source of income, independent of the income of the spouse, that is sufficient to pay the bills for the utility service (estimated by the method described in subsection B). "Independent income" means a reasonably certain supply of funds from any source, other than a source under the direct control of the spouse. This amount is not, however limited to wages alone.

5. In all cases other than those described in paragraph 4, in order to determine whether an applicant is "likely to be a credit risk," a utility may attribute to an applicant the credit and financial condition or credit history of a second person, regardless of the legal relationship between the applicant and the second person, only if the applicant is dependent for his or her support upon the other person. An applicant is not "dependent" upon the second person for support if the applicant has a reasonably certain supply of funds from other sources to pay the bill for the utility service (estimated by the method described in subsection B).

a. In any calendar year, a child of divorced or legally separated parents may be considered dependent on a parent only if that parent has custody of the child for a least one-half of the calendar year, regardless of the actual amount of support received from that parent.

b. In the case of an applicant who is a full-time student at an educational institution, amounts received as scholarships for study at the educational institution cannot be taken into account in determining whether the applicant is dependent for his or her support upon any second person.

6. A utility may require an applicant to comply with the requirements of a guarantor of a deposit if:

a. the applicant applies for service at the location of a customer who was disconnected for nonpayment;

b. the billing address remains at the disconnected customer's location; and

c. the applicant resides at a different location.

B. Amount. A utility cannot demand a deposit which is more than the amount reasonably anticipated to be due for service for the two highest consecutive billing periods. The amount of the deposit of a customer with no previous usage history with the utility cannot exceed the two highest consecutive bills of the utility's other residential customers whose usage is similar or expected to be similar.

C. Retention and Refund.

1. A utility must refund a deposit in the following circumstances:

- a. When the customer has been disconnected. The utility then must apply the deposit, including accrued interest, to the account balance for utility service and refund the remainder within thirty (30) days or with the final bill, whichever is later. A transfer of service from one location to another is not considered disconnection for the purpose of this paragraph;
- b. When the customer establishes good credit. If the customer pays all bills by the due date for twelve (12) consecutive months, the utility must refund the deposit, including accrued interest, within thirty (30) days after the twelfth bill is paid;
- c. When a customer substitutes a third-party guarantor. If a guarantor is provided in accordance with the provisions of subsection F, the utility must refund the deposit, including accrued interest, up to the limits of the guarantee; or
- d. When, at any time earlier than this subsection requires, the utility chooses to refund a deposit, including accrued interest.

2. The customer can choose to have a refunded deposit applied to reduce bills for future utility service or to receive a cash refund.

3. Once a deposit has been refunded to the customer, a utility can collect a new deposit from the customer only if, after the refund, there is "proof that the customer is likely to be a credit risk" as defined in subsection A.

4. If the customer does not establish good credit or if the utility, after refunding the deposit, can collect a second deposit on the same account, the utility can keep the deposit for as long as it determines that the deposit is necessary as security for future payment or performance.

D. Interest. A utility must pay interest on deposits according to the provisions of Chapter 87 of the Rules of the Commission.

6. PAYMENT ARRANGEMENT

A. Agreement. The utility must continue to serve a customer who cannot pay an account balance in full if the customer:

1. pays a reasonable portion of the account balance;
2. agrees to pay the balance in reasonable installments; and
3. agrees to pay all future bills within thirty (30) days after the postmark of the bill until the installment payment arrangement is completed.

B. Form; Commission Review.

1. A payment arrangement can be made orally, but a utility must confirm in writing every payment arrangement that requires more than one payment or any payment after the effective period of a pending disconnection notice. The utility must mail or deliver a copy of the confirmation of the payment arrangement to the customer within three (3) business days after the oral agreement is made.

2. A written confirmation of a payment arrangement and any written form or offer of a payment arrangement prepared by the utility must conspicuously and clearly inform the customer of the provisions of subsections A, B(5) (with the Commission address and toll free telephone number) and D of this Section. The written confirmation or offer must also clearly inform the customer of the utility's right to issue a 3-day disconnection notice for failure to comply with a payment arrangement.

3. In determining if a particular arrangement is reasonable, the utility must take into account:

- the customer's ability to pay;
- the size of the overdue amount;
- the customer's payment history;
- whether disconnection would present a danger to the health of the customer or occupants; and,
- the amount of time and reason why the overdue amount is outstanding.

The utility must make every reasonable attempt to negotiate a payment arrangement that is likely to prevent disconnection and reduce the amount overdue to zero.

4. If a payment arrangement was not confirmed in writing within three (3) business days after the oral agreement was made, a utility cannot disconnect the customer for failure to comply with the payment arrangement. A utility may either attempt personal contact to negotiate a new payment arrangement or issue a 14-day disconnection notice according to Section 7(A)(1).

5. If a utility and a customer cannot agree on the terms of a payment arrangement, the Consumer Assistance Division will establish a reasonable payment arrangement.

C. Second Agreement. If a customer fails to comply with terms of a payment arrangement, the utility may, but is not required to, negotiate a second payment arrangement.

D. Rights Preserved. A payment arrangement or other settlement of a dispute under this Chapter is not binding if it requires the customer to give up any rights provided by this Chapter.

E. Winter Rule. The provisions of Section 17 (Winter Disconnection Rule) supersede the provisions of this Section when applicable.

7. WHEN DISCONNECTION PROCEDURES CAN BEGIN

A. Disconnection Without Consent. A utility can begin disconnection procedures without the consent of the customer or occupant only if one or more of the following conditions exist:

1. The customer does not pay or make a payment arrangement on an undisputed overdue amount that is more than \$50. A utility can disconnect service for an overdue amount of less than \$50 only if:

- the overdue amount is more than ninety (90) days old; or
- the utility bills four (4) times a year or less.

2. The customer does not make payment according to the terms of a payment arrangement;

3. The customer does not pay or make a payment arrangement for a deposit or provide a third-party guarantor according to the provisions of Section 5;

4. Service is being used, but no occupant of other person has applied for customer status;

5. The customer unreasonably refuses to allow access to the premises to install or read a meter or for the necessary inspection or repair of utility property;

6. There is unauthorized use (as that term is defined in Section 2(Q) of the utility service delivered on or about the affected dwelling;

7. The utility has reason to believe there is fraud or that the customer has materially misrepresented his or her identity in order to obtain utility service without complying with the provisions of this Chapter;

8. The occupant violates an approved tariff provision concerning the safety of any person or the integrity of the utility delivery system; or

9. The customer does not comply with a decision of the Consumer Assistance Division or the Commission according to Section 13.

B. Request or Abandonment. A utility may disconnect service at the request of a customer (provided that the provisions of Section 9(I) concerning landlord/tenant disconnections are not applicable) or if the dwelling is clearly abandoned.

1. A utility can require customers to give notice of requests to disconnect service. A utility cannot require more than seven (7) days notice. The utility can require the customer to pay for service that is actually provided until the customer gives the required notice; the utility actually disconnects procedures for failure to apply for customer status; or there is an application for service at the location.

8. WHEN DISCONNECTION CANNOT OCCUR

A. Amount Overdue. The amount overdue stated on the disconnection notice must not include:

1. non-basic utility service (defined in Section 2(L);

2. amounts owed from a different account, unless a transfer of the account balance was done according to Section 4;

3. amounts owed from estimated bills. The amount overdue may include estimated bills only if the utility attempted reasonable alternatives to gain access or obtain a reading supplied by the customer; or,

4. residential service provided in the name or names of persons other than the customer, unless a court or administrative agency has determined that the customer is legally obligated to pay the amount overdue. This paragraph does not affect the creditor rights and remedies of a utility provided by other law.

B. Medical Emergency. A utility must not disconnect if it has been notified of a medical emergency according to Section 11.

C. Interstate Telephone Service. A telephone utility must not disconnect local exchange service for a customer's failure to pay for interstate service unless the telephone utility or the Commission is authorized by the provider of interstate service to mediate and resolve disputes.

D. Lifeline Customers. Telephone utilities eligible to receive federal universal service fund support pursuant to section 254 of the Telecommunications Act shall not disconnect Lifeline customers for non-payment of toll charges.

9. DISCONNECTION NOTICE

A. Without Notice. A utility can disconnect a customer without notice in the circumstances described in:

- Section 7(A)(6) (unauthorized use);
- Section 7(A)(8) (dangerous condition); or,
- Section 7(B) (request or abandonment).

B. 14-Day Notice. A utility must provide written notice of the intent to disconnect at least fourteen (14) calendar days before the stated disconnection date in any of the circumstances described in:

- Section 7(A)(1) (failure to pay);
- Section 7(A)(5) (refusal of access);
- Section 7(A)(7) (fraud or material misrepresentation); or
- Section 7(A)(8) (undangerous tariff provision concerning utility delivery system)

C. 3-Day Notice. A utility must provide written notice of the intent to disconnect a customer at least three (3) business days before the stated disconnection date in any of the circumstances described in:

- Section 7(A)(2) (broken payment arrangement);
- Section 7(A)(3) (failure to provide a deposit or guarantor);
- Section 7(A)(4) (failure to apply for customer status):
- Section 7(A)(9) (failure to comply with Commission decision), unless the Consumer Assistance Division or the Commission establishes a different notice period; or
- Section 9(H) (dishonored check).

D. Time of issuance.

1. A utility cannot issue a disconnection notice for the circumstances described in Section 7(A)(1) (failure to pay an overdue amount) until at least thirty (30) days after the original bill is mailed. See Section 2(J) for when a bill is considered to have been mailed. A utility cannot issue a disconnection notice for the circumstances described in Section 7(A)(2) (broken payment arrangement) and 7(A)(3) (failure to pay a deposit) until at least one (1) business day after the due date of the payment. In either case, a utility that mails disconnection notices from and requires that payment be sent to a location outside Maine must add five (5) calendar days to the time period established by this subsection.

2. A utility can issue a disconnection notice for the other circumstances described in Section 7 at any time after the applicable criteria are met.

3. A telephone utility can issue a disconnection notice no earlier than five (5) business days after the postmark of the original bill (or the date of the bill if it is mailed on that date) if:

- a. the customer's account balance includes toll usage that exceeds \$500;
- b. the customer has been notified of the accelerated collection procedures with or at the same time as the original bill;
- c. the telephone utility makes personal contact with the customer or there is clear evidence of abandonment; and,

d. the customer has refused or failed to provide satisfactory evidence of his or her ability to pay or enter into a payment arrangement for the account balance.

E. Disconnection Date. The disconnection dated stated in the notice must not be a Friday, weekend, legal holiday, the day before a legal holiday or a day when the utility's office is not open for public business. The term "legal holiday" is defined in 4 M.R.S.A. Section 1051.

F. Period of Effectiveness. A disconnection notice is effective for ten (10) business days after the disconnection date stated in the notice. If a utility fails to properly disconnect service within ten (10) business days after the disconnection date, the disconnection notice procedures must be repeated.

G. Refusal of Access by Customer. If a customer expressly refuses to allow the utility access to the meter or other fixture or device necessary to accomplish disconnection, the ten (10) business day period provided in subsection F can begin on the date of the last refusal by the customer. This provision applies if the utility;

1. records the date, time and manner of each attempt to disconnect service and each express refusal by the customer to allow access; and

2. has no other reasonable means to disconnect the customer other than that refused by the customer.

H. Bad Check. If the customer has paid by a check which was not honored by the bank before the expiration of the disconnection notice, the utility must attempt to obtain payment by alternate means from the customer before disconnecting service. If a check is not honored after the expiration of the disconnection notice, the utility can issue a 3-day disconnection notice and require payment by cash or certified check. A disconnection notice issued as a result of a dishonored check supersedes any other pending disconnection notice.

I. Disconnection Notice Procedures for Leased or Rented Property.

1. A utility cannot disconnect a leased or rented dwelling at the request of a lessor, owner, or agent ("landlord") or because the landlord (as a customer) has failed to pay an overdue amount, unless:

- a. the tenant agrees in writing to the disconnection;
- b. the landlord signs a notarized statement that the premises are vacant;
- c. the utility by personal inspection determines that the premises are vacant; or
- d. the utility gives notice as described in paragraph 2.

2. A utility must make every reasonable attempt to deliver the notice in person to at least one adult occupant of each dwelling unit. With respect to a single meter, multi-unit dwelling, the utility must also post the notice at or near the front and rear entrances to the building or buildings affected. The notice must, in addition to the applicable disclosures of subsection J, inform the tenant how service can be continued. A utility must either offer the tenant the opportunity to obtain service in the tenant's name or otherwise assume responsibility for further payment.

3. The disconnection notice must be mailed or delivered at least ten (10) days before the disconnection date stated in the notice.

4. Before the actual disconnection of service to a single-meter, multi-unit dwelling, a utility must:

- a. have a tariff approved by the Commission that:
 - i) assesses a reasonable fee for the collection of an unpaid account balance from the landlord, in addition to an applicable reconnection fee; and
 - ii) authorizes the utility to separately meter each dwelling unit, at the landlord's expense, if the dwelling is disconnected for nonpayment of an overdue amount;
- b. apply any existing deposit to the current account balance;
- c. file the lien authorized by Title 35-A M.R.S.A., Section 706 and seek a writ of attachment; and,

d. notify the Consumer Assistance Division of the actions take pursuant to this subsection and their results.

5. A utility cannot require the tenant to pay for any charges incurred by the landlord or demand a deposit or advance payment based on the landlord's credit history.

6. This subsection also applies if a municipality requests the utility to disconnect residential service at a dwelling where the municipality has temporarily put the service in its name on behalf of the occupant.

J. Content of Disconnection Notice. A disconnection notice must be in writing and conspicuously contain the following information:

1. the overdue amount or the exact reason for the disconnection if not for an overdue amount;

2. what the customer must do to avoid disconnection;

3. the disconnection date and the period for which the disconnection notice is effective;

4. a statement of the customer's right to postpone disconnection for a medical emergency of the customer or an occupant and a description of how to declare a medical emergency according to Section 11;

5. a statement that the customer can avoid disconnection by negotiating a payment arrangement with affordable monthly or weekly installment payments and that the overdue amount must be paid in a reasonable period of time. This disclosure is not required if the disconnection notice is for a broken payment arrangement;

6. a statement of the customer's right to submit a disputed matter before the disconnection date to: Consumer Assistance Division, Public Utilities Commission, 242 State Street, State House Station #18, Augusta, Maine 04333-0018; telephone 289-3831 or toll free 1-800-452-4699;

7. a statement that the customer cannot submit a dispute to the Consumer Assistance Division until the customer has first tried to resolve the dispute with the utility;

8. the title and telephone number of the appropriate utility representative and a statement that the call may be made collect from within the utility's service area, unless a toll free number is offered or calls within the utility's service area are toll free to the designated telephone number;

9. a statement of the reconnection charge, if any; and,

10. a statement of the utility's policy concerning the requirement of a deposit in the event of disconnection.

10. DISCONNECTION PROCEDURES

A. Time. Disconnection must occur between 8:00 a.m. to 3:00 p.m. on the due date specified in the notice or during the effective period of the notice. Disconnection cannot occur on a Friday, weekend, legal holiday, the day before a legal holiday or a day when the utility's office is not open for public business. These restrictions can be varied if:

1. the utility has made special arrangements with the customer to disconnect at an alternative time;
2. access to the premises can only be obtained at an alternative time;
3. the disconnection is for a reason other than nonpayment; or
4. the utility has authorized personnel available to resolve disputes two hours after the disconnection occurs. In this case, the utility may disconnect service not later than 7 p.m.

B. Attempt to Contact. A utility must make a reasonable effort to contact the customer personally before disconnection occurs. This duty is met if an electric, gas and water utility:

1. contacts the customer by telephone prior to disconnection; or
2. attempts personal contact with the customer at the time of a premise visit to disconnect.

A telephone utility must make a reasonable effort to contact the customer by telephone before disconnection occurs.

11. MEDICAL EMERGENCY

A. General. A utility must not disconnect or refuse to reconnect the service to any dwelling when either the customer or the occupant is certified by a registered physician to be seriously ill or has a medical condition that will be seriously aggravated by lack of utility service.

12. RECONNECTION OF SERVICE

A. Duty to Reconnect. If service has been disconnected, the utility must reconnect service promptly upon the customer's request when the cause of disconnection has been removed.

B. Payment Arrangement, Deposit. A utility must offer the customer a reasonable payment arrangement on the account balance if the disconnection was for nonpayment. If the utility demands a deposit before reconnection of service, the utility must offer the following options to the customer:

1. pay the deposit and enter into a payment arrangement for the amount overdue;
2. pay the amount overdue and enter into a payment arrangement for the deposit; or
3. pay the deposit and amount overdue in full.

The utility may require the customer to pay an authorized reconnection fee prior to reconnection or include the reconnection fee in the next bill.

C. Time. The utility must make a reasonable effort to reconnect service during business hours on the same day that it receives the request to reconnect. At the latest, reconnection must be made during business hours on the first business day after the request. If a customer requests reconnection to occur at other than regular business hours, the utility must inform the customer of the higher reconnection charge, if applicable, and make a reasonable effort to reconnect if requested, but the utility is not obligated to do so unless a medical emergency exists.

D. Reconnection Fee. A utility may file a tariff to charge a reasonable fee for reconnection during regular business hours and a higher fee for reconnection at other times.

13. DISPUTE RESOLUTION

A. Utility employee available.

1. A utility must provide at least one employee during business hours to respond to questions and resolve disputes from applicants and customers. The employee must be authorized to enter into payment arrangements and settle disputes on behalf of the utility. Utility employees who are responsible for receiving telephone calls and office visits from applicants and customers must be properly qualified and instructed in how to screen, handle promptly or refer questions, disputes and requests for service to the appropriate person.

2. A utility with fewer than five (5) full-time employees or fewer than 300 customers is not required to have an informed employee available at all times during business hours. If such a utility achieves contact with a customer before disconnection, the utility must not disconnect the customer until it has offered the customer the opportunity to resolve a dispute or to avoid disconnection by contact with the employee who is authorized to resolve disputes and enter into payment arrangements.

B. Disconnection Prohibited; Utility Investigation.

1. A utility cannot threaten disconnection or disconnect a customer or applicant who has informed the utility that he or she disputes liability for all or any portion of a bill, deposit request, the terms of a payment arrangement, or the terms required by a utility in order to obtain service or to avoid disconnection. When a customer disputes a portion of a bill, a utility may demand payment of that portion not in dispute in order to prevent disconnection.

2. When the utility becomes aware of a dispute by a customer or applicant, whether or not disconnection is pending, the utility must:

- a. investigate the dispute, preserving a record of the substance and results of the investigation;
- b. report the results of the investigation to the customer based on the record; and
- c. attempt in good faith to resolve the dispute.

C. Notification of Right to File an Appeal With the Consumer Assistance Division. If the utility cannot resolve the dispute with the customer or applicant after the procedures of subsection B have been completed, the utility must orally inform the person with the dispute of his or her right to appeal the dispute to the Consumer Assistance Division and of the toll free telephone number of the Commission. If the dispute concerns a pending disconnection, the utility must orally inform the customer or applicant that the appeal must be filed before the due date of the disconnection notice or within two (2) business days if the due date has passed. During that time, the utility must not disconnect service.

D. Customer Duty to Pay Undisputed Amounts. A customer that disputes liability for any portion of the bill must pay the undisputed portion of the bill in order to avoid further collection action, including disconnection.

E. Investigation by the Consumer Assistance Division.

1. If a customer files an informal appeal with the Consumer Assistance Division, the utility must not disconnect or threaten disconnection on the disputed amount until the dispute is resolved according to the procedures of this subsection. If a customer files an appeal after disconnection has occurred, the customer is only entitled to reconnection pending resolution of the dispute if the utility has issued a disconnection notice that fails to conform to Section 9 or if the Director or Assistant to the Director of the Consumer Assistance Division finds reasonable grounds to believe that the utility has violated other provisions of this Chapter. If the Consumer Assistance Division orders the utility to reconnect according to this paragraph, the utility must reconnect without reconnection charges or deposit, if otherwise applicable.

2. The Consumer Assistance Division will notify the utility by telephone and confirm in writing that a dispute has been appealed and the date of the appeal. The Consumer Assistance Division will conduct an informal investigation of the dispute. The investigation may include:

- an informal meeting with the customer and a utility representative;
- review of the written record of the utility's investigation required by subsection B; and

- an examination of other written records, such as the billing and payment history of the customer, notice of disconnection and other written documentation determined by the Consumer Assistance Division to be relevant to the dispute.

3. The Consumer Assistance Division will complete its investigation and issue a decision on the merits of the dispute as soon as practicable, but no later than twenty (20) business days after it receives the appeal. The decision may be issued later if the utility agrees to an extension. An oral decision will be confirmed in writing within a reasonable time.

4. The decision by the Consumer Assistance Division will include orders which are just and reasonable in order to resolve the dispute, including, but not limited to:

- reconnection of service, deposit requirements;
- payment arrangement terms;
- an adjustment of late fees accrued since the dispute was appealed;
- a determination of whether a violation of this Chapter has occurred; and
- a determination that a utility may proceed with disconnection in appropriate circumstances.

5. Any written decision of the Consumer Assistance Division will inform both the customer and the utility of their right to appeal the Consumer Assistance Division's decision to the Commission and of the rights of either party while an appeal is pending before the Commission.

F. Appeal to the Commission.

1. Either the customer or the utility can appeal a decision of the Consumer Assistance Division to the Commission by filing notice of the appeal with the Administrative Director of the Commission within five (5) business days after the date of the decision. The receipt of an appeal will be treated as a request for investigation according to 35-A M.R.S.A. Section 1303. A summary investigation will be conducted, after which the Commission will determine whether a formal investigation is warranted.

If a formal investigation is not begun, the Commission will inform the parties that failure to act in accordance with the decision of the Consumer Assistance Division will constitute grounds to commence a formal investigation according to 35-A M.R.S.A. Section 1303 and the initiation of a proceeding to issue a temporary order according to 35-A M.R.S.A. Section 1322. The summary investigation will be completed within thirty (30) days from the date the appeal is filed.

2. If the decision of the Consumer Assistance Division permits the utility to disconnect service and the customer has appealed to the Commission, the utility must not disconnect service. However, the utility may follow either of these two options:

a. The utility may petition the Commission in writing, requesting that it be allowed to disconnect service while the appeal is pending. The Commission will decide on the petition within seven (7) business days after the petition is filed. If the Commission determines, with or without hearing, that there is no reasonable likelihood that the customer will succeed in the appeal, the Commission will allow the utility to disconnect service to the customer on the basis of the dispute which is the subject of the appeal that is pending; or

b. The utility may bill the customer on an expedited basis for the value of the current service actually provided while the appeal is pending, using its normal method for measuring usage and determining the charge. Expedited bills must be for service periods of at least seven (7) days. The utility may require that expedited bills are payable upon receipt. The utility may, regardless of the amount of an expedited bill, disconnect service for nonpayment of an expedited bill not less than five (5) calendar days after mailing to the customer a notice conforming to the requirements of Section 9(J). Any payment arrangement agreed upon for paying the expedited billing does not have to conform to the requirements of Section 6(A)(3). The utility must not disconnect, however, if the

dispute under appeal is based upon the alleged existence of a medical emergency as specified by Section 11, when the medical emergency certificate and renewed certificate, if any, have not expired.

The utility must notify the Commission of any disconnection made under the authority of paragraph (2). The disconnection will not operate as a dismissal of the customer's appeal unless the customer specifically requests the dismissal. If the Commission sustains the customer's appeal, the utility must reconnect service to the customer and must not collect or require any reconnection charge or deposit. The customer remains liable for any undisputed charges.

3. If the Consumer Assistance Division's decision does not permit the utility to disconnect service to the customer, and if the utility has appealed to the Commission from that decision, the utility cannot disconnect service to the customer while the appeal is pending for any reason relating to the subject matter of the appeal. All provisions of this Chapter continue to apply to the utility and the customer unless specifically modified by this Section, except that the utility may petition the Commission for permission to disconnect in accordance with subsection (F)(2)(a).

G. Decision Permitting Disconnection. After the appeal period of a decision of the Consumer Assistance Division permitting disconnection has passed with no appeal taken, the utility can disconnect the customer without further notice unless a payment arrangement is made in accordance with Section 6 or unless the decision specifies a different notice period. If the disconnection is not completed within ten (10) business days after the utility has received the decision or after the date specified in the decision, the utility must repeat the notice procedure. The ten (10) business day period may be extended in the manner described in Section 9(G).

15. EMERGENCY MORATORIUM

When the Commission determines that, because of a general weather or health emergency, terminating or disconnecting the utility service of one or more utilities would present a clear danger to the health or safety of their customer, the Commission may declare a partial or complete moratorium on the disconnection of service, for an initial period of not more than ten (10) days. The Commission will renew the moratorium as many times as the duration of the emergency requires, but no single renewal will be for a period longer than ten (10) days. A moratorium will not extend beyond the duration of the emergency and will prohibit terminating or disconnecting service only to the extent necessary to protect the health or safety of the customers affected by the emergency.

16. RECORD MAINTENANCE; REPORTING TO THE PUBLIC UTILITIES COMMISSION; PUBLIC INFORMATION

A. Public Information. A utility must provide all new customers and current customers affected by a significant change with a summary of their rights and responsibilities under this Chapter. If there is a significant change to any requirement of this Chapter, the Commission will prepare a summary within six months after the effective date of an amendment. If a utility adopts a significant change to its billing, credit or collection procedures, the utility must prepare the summary. In any case, the summary must be in writing, reproduced by the utility, displayed prominently and available at all utility offices that are open to the general public. The summary must be mailed or delivered to all new customers and current customers affected by a change. The written summary must contain information concerning, but not limited to, the following:

1. procedures for billing and for estimated billing;
2. methods for customers to verify the accuracy of their bills;
3. payment methods, locations, late fees (if any) and optional payment programs offered by the utility;
4. security deposit and guarantee requirements;
5. procedures for disconnection and reconnection of service;
6. dispute, informal appeal and formal appeal procedures;

7. explanation of meter reading procedures which would enable a customer to read his or her own meter;
8. procedures that customers or occupants may follow during emergency service interruptions, including how to notify the utility of the need for priority restoration due to the presence of life support systems;
9. procedures for having a third party receive copies of notices;
10. the utility's limitations on liability for service interruptions contained in the utility's tariff on file with the Commission, when a claim for abatement may be requested, and how a customer can submit a claim for damages or abatement due to service interruptions; and
11. telephone numbers and addresses of the utility and of the Commission where further inquiries may be made.